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Executive Order 13930 of June 24, 2020

The President

Strengthening the Child Welfare System for America's Children

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Purpose. Every child deserves a family. Our States and communities have both a legal obligation, and the privilege, to care for our Nation's most vulnerable children.

The best foster care system is one that is not needed in the first place. My Administration has been focused on prevention strategies that keep children safe while strengthening families so that children do not enter foster care unnecessarily. Last year, and for only the second time since 2011, the number of children in the foster care system declined, and for the third year in a row, the number of children entering foster care has declined.

But challenges remain. Too many young people who are in our foster care system wait years before finding the permanency of family. More than 400,000 children are currently in foster care. Of those, more than 124,000 children are waiting for adoption, with nearly 6 out of 10 (58.4 percent) having already become legally eligible for adoption.

More than 50 percent of the children waiting for adoption have been in foster care—without the security and constancy of a permanent family—for 2 years or more. The need for stability and timely permanency is particularly acute for children 9 years and older, children in sibling groups, and those with intellectual or physical disabilities.

Even worse, too many young men and women age out of foster care having never found a permanent, stable family. In recent years, approximately 20,000 young people have aged out of foster care each year in the United States. Research has shown that young people who age out of the foster care system are likely to experience significant, and significantly increased, life challenges—40 percent of such young people studied experienced homelessness; 50 percent were unemployed at age 24; 25 percent experienced post-traumatic stress disorder; and 71 percent became pregnant by age 21. These are unacceptable outcomes.

Several factors have contributed to the number of children who wait in foster care for extended periods. First, State and local child welfare agencies often do not have robust partnerships with private community organizations, including faith-based organizations. Second, those who step up to be resource families for children in foster care—including kin, guardians, foster parents, and adoptive parents—may lack adequate support. Third, too often the processes and systems meant to help children and families in crisis have instead created bureaucratic barriers that make it more difficult for these children and families to get the help they need.

It is the goal of the United States to promote a child welfare system that reduces the need to place children into foster care; achieves safe permanency for those children who must come into foster care, and does so more quickly and more effectively; places appropriate focus on children who are waiting for adoption, especially those who are 9 years and older, are in sibling groups, or have disabilities; and decreases the proportion of young adults who age out of the foster care system.

Children from all backgrounds have the potential to become successful and thriving adults. Yet without a committed, loving family that can provide encouragement, stability, and a lifelong connection, some children may never receive the support needed to realize that potential.

This order will help to empower families who answer the call to open their hearts and homes to children who need them. My Administration is committed to helping give as many children as possible the stability and support that family provides by dramatically improving our child welfare system.

Sec. 2. *Encouraging Robust Partnerships Between State Agencies and Public, Private, Faith-based, and Community Organizations.* (a) In order to facilitate close partnerships between State agencies and nongovernmental organizations, including public, private, faith-based, and community groups, the Secretary of Health and Human Services (the “Secretary”) shall provide increased public access to accurate, up-to-date information relevant to strengthening the child welfare system, including by:

(i) Publishing data to aid in the recruitment of community support. Within 1 year of the date of this order and each year thereafter, the Secretary shall submit to the President, through the Assistant to the President for Domestic Policy, a report that provides information about typical patterns of entry, recent available counts of children in foster care, and counts of children waiting for adoption. To the extent appropriate and consistent with applicable law, including all privacy laws, this data will be disaggregated by county or other sub-State level, child age, placement type, and prior time in care.

(ii) Collecting needed data to preserve sibling connections.

(A) Within 2 years of the date of this order, the Secretary shall collect information from appropriate State and local agencies on the number of children in foster care who have siblings in foster care and who are not currently placed with their siblings.

(B) Within 3 years of the date of this order, to support the goal of keeping siblings together (42 U.S.C. 671(a)(31)(A)), the Secretary shall develop data analysis methods to report on the experience of children entering care in sibling groups, and the extent to which they are placed together. The Secretary’s analysis shall also assess the extent to which siblings who are legally eligible for adoption achieve permanency together.

(iii) Expanding the number of homes for children and youth.

(A) Within 2 years of the date of this order, the Secretary shall develop a more rigorous and systematic approach to collecting State administrative data as part of the Child and Family Services Review required by section 1123A of the Social Security Act (the “Act”) (42 U.S.C. 1320a–2a). Data collected shall include:

- (1) demographic information for children in foster care and waiting for adoption;
- (2) the number of currently available foster families and their demographic information;
- (3) the average foster parent retention rate and average length of time foster parents remain certified;
- (4) a target number of foster homes needed to meet the needs of children in foster care; and
- (5) the average length of time it takes to complete foster and adoptive home certification.

(B) The Secretary shall ensure, to the extent consistent with applicable law, that States report to the Secretary regarding strategies for coordinating with nongovernmental organizations, including faith-based and community organizations, to recruit and support foster and adoptive families.

(b) Within 1 year of the date of this order, the Secretary shall issue guidance to Federal, State, and local agencies on partnering with nongovernmental organizations. This guidance shall include best practices for information sharing, providing needed services to families to support prevention of children entering foster care, family preservation, foster and adoptive home recruitment and retention, respite care, post-placement family support, and support for older youth. This guidance shall also make clear that faith-based organizations are eligible for partnerships under title IV–E of the Act (42 U.S.C. 670 *et seq.*), on an equal basis, consistent with the First Amendment to the Constitution.

Sec. 3. *Improving Access to Adequate Resources for Caregivers and Youth.* While many public, private, faith-based, and community resources and other sources of support exist, many American caregivers still lack connection with and access to adequate resources. Within 1 year of the date of this order, the Secretary shall equip caregivers and those in care to meet their unique challenges, by:

(a) Expanding educational options. To the extent practicable, the Secretary shall use all existing technical assistance resources to promote dissemination and State implementation of the National Training and Development Curriculum, including, when appropriate, in non-classroom environments.

(b) Increasing the availability of trauma-informed training. The Secretary shall provide an enhanced, web-based, learning-management platform to house the information generated by the National Adoption Competency Mental Health Training Initiative. Access to this web-based training material will be provided free of charge for all child welfare and mental health practitioners.

(c) Supporting guardianship. The Secretary shall provide information to States regarding the importance and availability of funds to increase guardianship through the title IV–E Guardianship Assistance Program (42 U.S.C. 673), which provides Federal reimbursement for payments to guardians and for associated administrative costs. This information shall include which States have already opted into the program.

(d) Enhancing support for kinship care and youth exiting foster care. The Secretary shall establish a plan to address barriers to accessing existing Federal assistance and benefits for eligible individuals.

Sec. 4. *Ensuring Equality of Treatment and Access for all Families.* The Howard M. Metzenbaum Multiethnic Placement Act of 1994 (the “Multiethnic Placement Act”) (Public Law 103–382), as amended, prohibits agencies from denying to any person the opportunity to become an adoptive or a foster parent on the basis of race, color, or national origin (42 U.S.C. 671(a)(18)(A)); prohibits agencies from delaying or denying the placement of a child for adoption or into foster care on the basis of race, color, or national origin (*id.* 671(a)(18)(B)); and requires agencies to diligently recruit a diverse base of foster and adoptive parents to better reflect the racial and ethnic makeup of children in out-of-home care (*id.* 662(b)(7)). To further the goals of the Multiethnic Placement Act, the Secretary shall:

(a) within 6 months of the date of this order, initiate a study regarding the implementation of these requirements nationwide;

(b) within 1 year of the date of this order, update guidance, as necessary, regarding implementation of the Multiethnic Placement Act; and

(c) within 1 year of the date of this order, publish guidance regarding the rights of parents, prospective parents, and children with disabilities (including intellectual, developmental, or physical disabilities).

Sec. 5. *Improving Processes to Prevent Unnecessary Removal and Secure Permanency for Children.* (a) Federal Review of Reasonable Effort Determinations and Timeliness Requirements.

(i) Within 2 years of the date of this order, the Secretary shall require that both the title IV–E reviews conducted pursuant to 45 CFR 1356.71 and the Child and Family Services Reviews conducted pursuant to 45 CFR 1355.31–1355.36 specifically and adequately assess the following requirements:

(A) reasonable efforts to prevent removal;

(B) filing a petition for Termination of Parental Rights within established statutory timelines and court processing of such petition, unless statutory exemptions apply;

(C) reasonable efforts to finalize permanency plans; and

(D) completion of relevant required family search and notifications and how such efforts are reviewed by courts.

(ii) In cases in which it is determined that statutorily required timelines and efforts have not been satisfied, the Secretary shall make use of existing authority in making eligibility determinations and disallowances consistent with section 1123A(b)(3)(4) of the Act (42 U.S.C. 1320a–2a(b)(3)(4)).

(iii) Within 2 years of the date of this order, the Secretary shall develop metrics to track permanency outcomes in each State and measure State performance over time.

(iv) Within 6 months of the date of this order, the Secretary shall provide guidance to States regarding flexibility in the use of Federal funds to support and encourage high-quality legal representation for parents and children, including pre-petition representation, in their efforts to prevent the removal of children from their families, safely reunify children and parents, finalize permanency, and ensure that their voices are heard and their rights are protected. The Secretary shall also ensure collection of data regarding State use of Federal funds for this purpose.

(b) Risk and Safety Assessments.

(i) Within 18 months of the date of this order, the Secretary shall collect States' individual standards for conducting risk and safety assessments required under section 106(b)(2)(B)(iv) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106(b)(2)(B)(iv)).

(ii) Within 2 years of the date of this order, the Secretary shall outline reasonable best practice standards for risk and safety assessments, including how to address domestic violence and substance abuse.

Sec. 6. *Indian Child Welfare Act.* Nothing in this order shall alter the implementation of the Indian Child Welfare Act or replace the tribal consultation process.

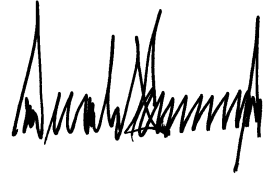
Sec. 7. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
June 24, 2020.

Presidential Documents

Presidential Determination No. 2020-07 of June 24, 2020

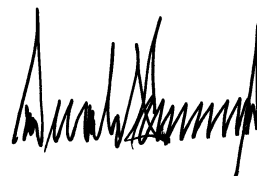
Presidential Determination Pursuant to Section 303 of the Defense Production Act of 1950, as Amended

Memorandum for the Secretary of Defense

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 303 of the Defense Production Act of 1950, as amended (the “Act”) (50 U.S.C. 4533), I hereby determine, pursuant to section 303(a)(5) of the Act, that the industrial base production capability for ultra-high and high temperature composites for hypersonic, strategic missile, and space launch systems is essential to the national defense.

Without Presidential action under section 303 of the Act, United States industry cannot reasonably be expected to provide the production capability for ultra-high and high temperature composites for hypersonic, strategic missile, and space launch systems adequately and in a timely manner. Further, purchases, purchase commitments, or other action pursuant to section 303 of the Act are the most cost-effective, expedient, and practical alternative method for meeting the need for this critical capability.

You are authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, June 24, 2020

Rules and Regulations

Federal Register

Vol. 85, No. 125

Monday, June 29, 2020

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

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 407 and 457

RIN 0563-AC69

[Docket ID FCIC-20-0005]

Area Risk Protection Insurance Regulations; Common Crop Insurance Policy Basic Provisions; and Common Crop Insurance Regulations, Coarse Grains Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule with request for comments.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the Area Risk Protection Insurance (ARPI) Regulations; Common Crop Insurance Policy (CCIP) Basic Provisions; and the Common Crop Insurance Regulations, Coarse Grains Crop Insurance Provisions. The intended effect of this action is to implement the changes contained in the Agriculture Improvement Act of 2018 (commonly referred to as the 2018 Farm Bill). Section 11122 of the 2018 Farm Bill required that FCIC research and develop methods of adjusting for quality losses. In addition to the 2018 Farm Bill required changes, FCIC is updating provisions regarding premium offsets, Administrator reinstatement, notice of loss, double cropping requirements, prevented planting, and units. The changes to the policy made in this rule are applicable for the 2021 crop year for crops with a contract change date on or after June 30, 2020. For all crops the changes to the policy made in this rule are applicable for the 2022 and succeeding crop years.

DATES:

Effective Date: This final rule is effective June 30, 2020.

Comment Date: FCIC will accept comments on this rule until close of

business August 28, 2020. FCIC may consider the comments received and may conduct additional rulemaking based on the comments.

ADDRESSES: We invite you to submit comments on this rule. In your comments, include the date, volume, and page number of this issue of the **Federal Register**, and the title of rule. You may submit comments by any of the following methods, although FCIC prefers that you submit comments electronically through the Federal eRulemaking Portal:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and search for Docket ID FCIC-20-0005. Follow the online instructions for submitting comments.

- *Mail:* Director, Product Administration and Standards Division, Risk Management Agency, U.S. Department of Agriculture, P.O. Box 419205, Kansas City, MO 64133-6205.

All comments received, including those received by mail, will be posted without change and publicly available on <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Francie Tolle; telephone (816) 926-7829, email francie.tolle@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

FCIC serves America's agricultural producers through effective, market-based risk management tools to strengthen the economic stability of agricultural producers and rural communities. The Risk Management Agency (RMA) manages FCIC. FCIC is committed to increasing the availability and effectiveness of Federal crop insurance as a risk management tool. Approved Insurance Providers (AIPs) sell and service Federal crop insurance policies in every state and in Puerto Rico through a public-private partnership. FCIC reinsures the AIPs who share the risks associated with catastrophic losses due to major weather events. FCIC's vision is to secure the future of agriculture by providing world class risk management tools to rural America.

Federal crop insurance policies typically consist of the Basic Provisions, the Crop Provisions, the Special Provisions, the Commodity Exchange Price Provisions, if applicable, other applicable endorsements or options, the actuarial documents for the insured

agricultural commodity, the Catastrophic Risk Protection Endorsement, if applicable, and the applicable regulations published in 7 CFR chapter IV.

FCIC amends the ARPI Basic Provisions, the CCIP Basic Provisions, and the Coarse Grains Crop Insurance Provisions (Coarse Grains Crop Provisions). The changes to the policy made in this rule are applicable for the 2021 crop year for crops with a contract change date on or after June 30, 2020. For all other crops the changes to the policy made in this rule are applicable for the 2022 and succeeding crop years.

ARPI Basic Provisions

The changes to the ARPI Basic Provisions (7 CFR part 407) are as follows:

FCIC is revising the definition of "second crop" to clarify what is considered a second crop. FCIC removed references of a cover crop that is hayed or grazed to provide flexibility to producers to use a cover crop for forage while considering a cover crop otherwise harvested as grain to be a second crop. For example, now a cover crop will not be considered a second crop unless it is planted for harvest as grain or seed. A cover crop is used for soil erosion and conservation purposes and not for harvest as grain or seed. For example, barley planted at a reduced seeding rate approved for cover crop use and used for forage would not be considered a second crop. However, barley planted at a full seeding rate for harvest as grain would be considered a second crop.

FCIC is revising section 2(j) to clarify when AIPs must apply premium credits when paying a claim on a policy. AIPs must apply premium credits when paying a claim on a policy. There has been some confusion regarding when an AIP must offset premium and administrative fees owed to them when an indemnity or prevented planting payment is simultaneously owed to the producer. This has led to situations where the producer incorrectly assumed their premium had been deducted from their indemnity payment and did not pay their premium when their premium statement came in the mail. Consequently, because the producer did not pay the full amount owed, as shown on the premium statement, they became ineligible for future insurance.

There has also been confusion on whether the AIP is required to apply an offset for any other crop policy insured with the AIP and whether the loss payment was being issued before or after the premium billing date. Producers may have multiple policies with an AIP (policies are issued on a crop and county basis), and each policy may have its own premium billing date. FCIC is revising this section to clarify for a crop policy with an indemnity due, the producer's premium and administrative fees for that same crop policy will be offset from any indemnity or prevented planting payment due to the producer even if it is prior to the premium billing date (will be applied automatically). For any other crop policy insured with the AIP, if the claim is to be paid:

(1) Prior to the premium billing date, and the producer agrees, their premium and administrative fees will be offset from any indemnity or prevented planting payment due them (will not be applied automatically); or

(2) On or after the premium billing date, the producer's premium and administrative fees will be offset from any indemnity or prevented planting payment due to the producer (will be applied automatically).

For example, a producer in Allen County, Kansas, insures both winter wheat and corn. Winter wheat has a premium billing date of July 1 and corn has a premium billing date of August 15. The producer was prevented from planting corn in April. The AIP must take the amount owed for premium and administrative fees for corn from the prevented planting payment. Because it is before the premium billing date for winter wheat, the AIP may take the amount owed for premium and administrative fees for winter wheat with the producer's consent.

FCIC is revising section 2(k)(2)(iii) and adding new section 2(k)(2)(iii)(C)(1)(iv) to broaden the authority given to the RMA's Administrator to reinstate producers that inadvertently failed to pay a debt timely. In addition, FCIC is authorizing the AIPs to allow reinstatement up to 15 calendar days after a due date for payment received during a previously executed payment agreement. This includes clarifying that in order to be reinstated, when a producer has a previously executed a written payment agreement to pay a debt, they are required to pay the amount due specified in the payment agreement, rather than the full amount owed. The remaining portion of the payment agreement is not yet due.

FCIC is adding a new section 13(c)(5) to allow the allocation of comingled first and second crop production to the associated crop acreage in proportion to the liability for the acreage that was and was not double cropped. Producers had found challenges keeping separate records of acreage and production that was and was not double cropped because often the acreage is in the very same field and they harvest both first and second crop production at the same time. For example, a producer has two fields in the same unit which are next to each other (contiguous). On one field they plant wheat, harvest the wheat, and then plant double crop soybeans. The other field was a single crop of soybeans only. The producer may harvest both soybean fields at the same time making it difficult to keep the production separate. This provision is currently contained in the CCIP Basic Provisions and it is also appropriate in the ARPI Basic Provisions.

FCIC is adding a new section 13(c)(6) to address double cropping requirements when another plan of insurance does not require records of production. FCIC is adding a new paragraph to state that each insured crop must follow its own Basic Provisions, Crop Provisions, and Special Provisions to determine if the double cropping requirements have been met. If the double cropping requirements in the applicable Basic Provisions, Crop Provisions, or Special Provisions have not been met for each insured crop, the Basic Provisions for that crop policy apply regarding payment reductions when the double cropping requirements are not met. For example, a producer may have both a policy under the Rainfall and Vegetation Index plan of insurance (RIVI provisions) and CCIP Basic Provisions. If a crop insured under the Annual Forage Crop Provisions (an insurance policy that uses the RIVI provisions) is involved in a scenario where the AIP is determining if the acreage meets the double cropping requirements or if the first crop and second crop rules apply, the Annual Forage Crop Provisions and RIVI provisions should be followed not the CCIP Basic Provisions.

FCIC is revising section 13(d) to explain how to determine a producer's double cropping acreage eligibility. To qualify for double cropping, a producer must have records that show the acreage was double cropped in at least 2 of the last 4 crop years in which the first insured crop was grown or have records that show the applicable acreage meets this requirement. The producer's double cropping acreage eligibility is then limited to the highest number of acres

double cropped within the applicable 4-year period.

FCIC is also adding a new section 13(d)(3) to allow eligible double cropping acres to be based on either:

(1) The greatest number of acres double cropped in 2 of the last 4 crop years in which the first insured crop was grown; or

(2) The percentage of acres historically double cropped in 2 of the last 4 crop years in which the first insured crop was grown.

For example, if a producer has a 100-acre farm and has historically double cropped 50 acres planted to wheat followed by soybeans (50 percent of acres historically double cropped), and the producer purchases and plants an additional 200 acres of wheat for a total of 300 acres of planted wheat, the number of acres eligible for double cropping would be based on 50 percent, or 150 acres. If the producer has historically double cropped wheat followed by soybeans on some or even all of the acreage, there is a reasonable presumption they may continue to do so in the future. This change is currently contained in the CCIP Basic Provisions and it is appropriate in the ARPI Basic Provisions.

CCIP Basic Provisions

The changes to the CCIP Basic Provisions (7 CFR part 457.8) are as follows:

FCIC is revising the definition of "basic unit" to clarify and exclude a portion of the crop in the county acreage that was reported as an enterprise unit. A basic unit is all insurable acreage of the insured crop in the county on the date coverage begins for the crop year in which the insured has 100 percent crop share, or which is owned by one person and operated by another person on a share basis. For example, if an insured owns land and rents land from two landlords on a share basis, they would have three basic units for the insured crop in the county. FCIC is revising the definition to clarify and exclude a portion of the crop in the county acreage that was reported as an enterprise unit. As written, the definition of the basic unit includes all insurable acreage of the crop in the county; however, some of the acreage can be reported as an enterprise unit, which has a separate definition. Therefore, FCIC is updating the definition of "basic unit" to correctly reflect the acreage interactions with enterprise units and optional units. An enterprise unit is all insurable acreage of a crop or all insurable irrigated or non-irrigated acreage of the crop in the county in which the insured has a share. An enterprise unit can be

comprised of multiple basic units. An optional unit is a subdivision of a basic unit. A basic unit can be comprised of multiple optional units.

FCIC is revising the definition of “second crop” to clarify what is considered a second crop. FCIC removed references of a cover crop that is hayed or grazed to provide flexibility to producers to utilize a cover crop for forage while considering a cover crop otherwise harvested as grain to be a second crop. For example, now a cover crop will not be considered a second crop unless it is planted for harvest as grain or seed. For example, barley planted at a reduced seeding rate approved for cover crop use and used for forage would not be considered a second crop. However, barley planted at a full seeding rate for harvest as grain would be considered a second crop. FCIC is adding corresponding changes to section 15(g)(3) of the Basic Provisions to allow silage, haylage, and baleage to be treated the same as haying and grazing in regard to cover and volunteer crops when it comes to payment reductions when a crop is prevented from being planted and a volunteer crop or cover crop is hayed, or grazed, or cut for silage, haylage, or baleage from the same acreage during the crop year.

FCIC is revising the definition of “veteran farmer or rancher” by replacing the word “and” with “or” after the phrase, “Air Force.” FCIC is also revising the definition to use semicolons to separate the items of the list in this definition because one of the items in the list contains commas and a semicolon will avoid potential confusion.

FCIC is revising section 2(e) to clarify when AIPs must apply premium credits when paying a claim on a policy. AIPs must apply premium credits when paying a claim on a policy. There has been some confusion regarding when an AIP must offset premium and administrative fees owed to them when an indemnity or prevented planting payment is simultaneously owed to the producer. This has led to situations where the producer incorrectly assumed their premium had been deducted from their indemnity payment and did not pay their premium when their premium statement came in the mail. Consequently, because the producer did not pay the full amount owed, as shown on the premium statement, they became ineligible for future insurance.

There has also been confusion on whether the AIP is required to apply an offset for any other crop policy insured with the AIP and whether the loss payment was being issued before or

after the premium billing date. Producers may have multiple policies with an AIP (policies are issued on a crop and county basis), and each policy may have its own premium billing date. FCIC is revising this section to clarify for a crop policy with an indemnity due, the producer's premium and administrative fees for that same crop policy will be offset from any indemnity or prevented planting payment due to the producer even if it is prior to the premium billing date (will be applied automatically). For any other crop policy insured with the AIP, if the claim is to be paid:

(1) Prior to the premium billing date, and the producer agrees, their premium and administrative fees will be offset from any indemnity or prevented planting payment due them (will not be applied automatically); or

(2) On or after the premium billing date, the producer's premium and administrative fees will be offset from any indemnity or prevented planting payment due to the producer (will be applied automatically).

For example, a producer in Allen County, Kansas insures both winter wheat and corn. Winter wheat has a premium billing date of July 1 and corn has a premium billing date of August 15. The producer was prevented from planting corn in April. The AIP must take the amount owed for premium and administrative fees for corn from the prevented planting payment. Because it is before the premium billing date for winter wheat, the AIP may take the amount owed for premium and administrative fees for winter wheat with the producer's consent.

FCIC is revising section 2(f)(2)(iii) and adding new section 2(f)(2)(iii)(C)(1)(iv) to broaden the authority given to the RMA's Administrator to reinstate producers that inadvertently failed to pay a debt timely. In addition, FCIC is authorizing the AIPs to allow reinstatement up to 15 calendar days after a due date for payment received during a previously executed payment agreement. This includes clarifying that in order to be reinstated, when a producer has a previously executed written payment agreement to pay a debt, they are required to pay the amount due specified in the payment agreement, rather than the full amount owed. The remaining portion of the payment agreement is not yet due.

FCIC is revising section 4(c) and adding paragraph (d). Changes to section 4 were made in the Catastrophic Risk Protection Endorsement; Area Risk Protection Insurance Regulations; and Common Crop Insurance Policy Basic Provisions Final rule with request for

comments, published in the **Federal Register** on June 28, 2019 (84 FR 30857). The change made in that rule provided that AIPs will send the changes electronically, unless the policyholder requested a hard copy. The changes described in that rule were not made in the Code of Federal Regulations. This rule is making the required technical corrections to make that change now.

FCIC is revising section 14(b)(5) to clarify a notice of loss must be filed, by the producer, for an AIP to consider whether the delayed notice impacts their ability to adjust losses as provided by section 14(b)(5). This was in response to agents filing a blanket notice of loss on behalf of producers and producers not being aware a loss was filed on their behalf. For example, starting in 2016, 85 percent of burley tobacco claims were filed on July 1 and listed that date of damage. These claims were being filed on the first of the month with anticipation of a loss later. Large claims were investigated by RMA and discussed with the producer that at the time, the producer did not expect a loss.

FCIC is revising section 15(g)(3)(i) to state the reduction in prevented planting payment will apply if a volunteer crop or cover crop is hayed, grazed, or cut for silage, haylage, or baleage from the same acreage, after the late planting period (or after the final planting date if a late planting period is not applicable) for the first insured crop in the same crop year. Prior to this final rule, the provisions in the regulation did not treat cutting a volunteer crop or cover crop for silage, haylage, or baleage the same as it does for haying and grazing. This change will allow silage, haylage, and baleage to be treated the same as haying and grazing regarding cover and volunteer crops.

FCIC is removing the provisions from section 15(h)(5)(i) and moving the provisions to a new section 15(i)(3). The provisions provide instructions to determine the amount of historical double cropping acres that are available to use for insurance in the current crop year.

FCIC is adding a new section 15(h)(7) to address double cropping requirements when another plan of insurance does not require records of production. FCIC is adding a new section to provide that each insured crop must follow its own Basic Provisions, Crop Provisions, and Special Provisions to determine if the double cropping requirements have been met. If the double cropping requirements in the applicable Basic Provisions, Crop Provisions, or Special Provisions have not been met for each insured crop, the

Basic Provisions for that crop policy apply regarding payment reductions when the double cropping requirements. For example, a producer may have both a policy under the RIVI provisions and CCIP Basic Provisions. If the Annual Forage Crop Provisions (an insurance policy that uses the RIVI provisions) is one of the crops involved in a scenario where the AIP is determining if the acreage meets the double cropping requirements or if the first crop and second crop rules apply, the Annual Forage Crop Provisions and RIVI provisions should be followed not the CCIP Basic Provisions.

FCIC is revising the language in 15(i) to explain how to determine a producer's double cropping acreage eligibility. To qualify for double cropping a producer must have records that show the acreage was double cropped in at least 2 of the last 4 crop years in which the first insured crop was grown or have records that show the applicable acreage meets this requirement. The producer's double cropping acreage eligibility is then limited to the highest number of acres double cropped within the applicable 4-year period.

FCIC is adding a new section 17(e)(1)(iii)(C) to clarify how eligible acres are determined for crops that require a processor contract to be insured. FCIC has been asked to address situations where some producers had reduced contracted acreage, which was not reduced solely due to prevented planting, or have no contracted acres for the current crop year. Some producers in this reduced or no contracted acres scenario have exhausted all eligible prevented planting acreage and are not eligible to provide prevented planting coverage to remaining cropland acres. Therefore, FCIC is adding new section 17(e)(iii)(C) to allow a producer who has exhausted eligible acres to provide prevented planting coverage for all insured cropland acres in the farming operation due to a reduced contract in the current crop year, to use the previous crop year's contract for the remaining acres. This is to incorporate changes issued under Manager's Bulletin: MGR-19-029 (Prevented Planting Eligible Acre History when Contracted Crop Acres are Reduced), published on RMA's website on December 23, 2019. FCIC has also added a reference to the new section 17(e)(1)(iii)(C) in section 17(h)(4).

For example, a producer has always grown 1,000 acres of contracted sugar beets, 1,000 acres of soybeans, and 1,000 acres of corn. For the 2020 crop year, the producer's sugar beet contract was reduced to 500 acres. The producer still

has 3,000 cropland acres available to plant. Therefore, the producer plans to plant 500 acres of sugar beets, 1,250 acres of soybeans, and 1,250 acres of corn. With a wet spring, the producer is only able to plant 1,000 acres of corn, 1,000 acres of soybeans, and 500 acres of contracted sugar beets. Under the provisions prior to this regulation, the producer would not have qualified for prevented planting on the remaining 500 acres in the farming operation (despite that they have planted and insured 3,000 cropland acres in the past 5 years) because section 17(e)(1)(iii) stated that the number of eligible acres for any crop that must be contracted with a processor to be insured will be the number of acres specified in the processor contract. However, under the provisions prior to this rule, if there was no contract in place, the producer could use their history of the contracted crop. Under the revised provisions, if the producer has exhausted eligible acres to provide prevented planting coverage for all insured cropland acres in the farming operation due to a reduced contract in the current crop year, the previous crop year's contract may be used for the remaining acres. In this example, the producer would be eligible for 3,000 acres of prevented planting paid in accordance with section 17(h) of the CCIP Basic Provisions.

FCIC is revising section 17(f)(4)(ii) regarding how to determine a producer's double cropping acreage eligibility. Consistent with section 15(i), to qualify for double cropping a producer must have records that show the acreage was double cropped in at least 2 of the last 4 crop years in which the insured crop that is prevented from being planted was grown or have records that show the applicable acreage meets this requirement. The producer's double cropping acreage eligibility is then limited to the highest number of acres double cropped within the applicable 4-year period.

FCIC is revising section 17(f)(5) to revise prevented planting and cover crops provisions. FCIC is clarifying that haying or grazing a cover crop will not impact eligibility for a prevented planting payment provided such action did not contribute to the acreage being prevented from planting. This incorporates allowances from a Special Provisions statement and in result, the Special Provisions statement is removed.

FCIC is revising section 34(a)(4)(viii)(C) to clarify current unit structure options and add an additional unit option when enterprise units for both irrigated and non-irrigated practices are elected, but the producer

doesn't qualify. If discovery for not qualifying is on or before the acreage reporting date, the producer has an additional option to elect an enterprise unit on one practice and a basic or optional unit on the other practice. Previously, a producer's options were either one enterprise unit containing both practices or basic or optional units for both practices, whichever the producer reported on the acreage report and qualified for.

FCIC is adding provisions to section 36 to provide another risk management option to producers that will allow a producer to replace post-quality production amounts in the APH databases with their pre-quality production amounts, therefore increasing their APH database yield for individual crop years with a Notice of Loss. This quality loss option's overall impact is to prevent an insured producer's guarantee from declining due to low quality when this option is elected.

Section 11122 of the 2018 Farm Bill required that FCIC research and develop methods of adjusting for quality losses that:

- (1) Do not impact the actual production history of a producer;
- (2) Allow producers to exclude a quality loss from their actual production history when the quality loss is insufficient to trigger an indemnity payment;
- (3) Is optional for a producer to use; and
- (4) Is offered at an actuarially sound premium rate.

Over the past year, RMA has conducted research and development efforts as required by the 2018 Farm Bill, including extensive stakeholder outreach, for implementing this option.

Coarse Grains Crop Insurance Provisions

The changes to the Coarse Grains Crop Insurance Provisions (7 CFR 457.113) are:

FCIC is revising section 2(c)(1) to replace the phrase, "or separate enterprise units for both," with "or separate enterprise units for one or both practices," to clarify what options for enterprise unit elections are available. As previously written, the intended meaning may not have been clear and the change will make it clear that if enterprise unit elections are made, an enterprise unit must be elected by both FAC and NFAC practices, rather than the option of electing an enterprise unit for one practice, and basic or optional units on the other practice; or enterprise units for both practices.

FCIC is revising section 2(a)(i)(4) to clarify current unit structure options and add an additional unit option when enterprise units for both FAC (Following Another Crop) and NFAC (Not Following Another Crop) cropping practices are elected, but the producer doesn't qualify. If discovery for not qualifying is on or before the acreage reporting date, the producer has an additional option to elect an enterprise unit on one cropping practice and a basic or optional unit on the other cropping practice. Previously, a producer's options were either one enterprise unit containing both cropping practices or basic or optional units for both cropping practices, whichever the producer reported on the acreage report and qualified for. This is consistent with similar changes made to the CCIP Basic Provisions for enterprise units by separate irrigation practices.

Miscellaneous Changes

In addition to the changes discussed above, FCIC is making non-substantive changes in the regulations. Examples of these changes include making references consistent, updating the website address, making grammatical corrections, and clarifying word changes.

FCIC is revising references throughout the regulations in §§ 407.9 and 457.8 to consistently refer to "FCIC procedures." FCIC refers to these documents inconsistently throughout the ARPI and the CCIP regulations. For example, the same documents are referred to as "procedures issued by FCIC" and "FCIC issued procedures."

FCIC is revising the ARPI definition of "actuarial documents" to remove the reference to "<http://www.rma.usda.gov/>." The definition refers to RMA's website which refers to this URL, therefore the URL is not needed in the definition of "actuarial documents."

FCIC is revising the definition of "veteran farmer or rancher" in ARPI and CCIP to make minor, non-substantive grammatical corrections.

FCIC is revising ARPI section 3(d) to revise the word "provided" to "notified" for clarity.

FCIC is revising ARPI section 20(b)(3) and CCIP section 33(b)(3) to change the beginning of the paragraph from "Will be conclusively" to "Conclusively" because the lead-in contained in the introductory paragraph of each of those sections already contains the term "will be."

FCIC is revising the ARPI and CCIP definition of "RMA website" to replace the URL with the current URL www.rma.usda.gov.

Effective Date and Notice and Comment

The Administrative Procedure Act (APA, 5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves specified actions, including matters relating to contracts. This rule governs contracts for crop insurance policies and therefore falls within that exemption.

For major rules, the Congressional Review Act requires a delay the effective date of 60 days after publication to allow for Congressional review. This rule is not a major rule under the Congressional Review Act, as defined by 5 U.S.C. 804(2). Therefore, this final rule is effective June 30, 2020. Although not required by APA or any other law, FCIC has chosen to request comments on this rule.

Executive Orders 12866, 13563, 13771 and 13777

Executive Order 12866, "Regulatory Planning and Review," and Executive Order 13563, "Improving Regulation and Regulatory Review," direct agencies to assess all costs and benefits of available regulatory alternatives, and if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The requirements in Executive Orders 12866 and 13563 for the analysis of costs and benefits apply to rules that are determined to be significant. Executive Order 13777, "Enforcing the Regulatory Reform Agenda," established a Federal policy to alleviate unnecessary regulatory burdens on the American people.

The Office of Management and Budget (OMB) designated this rule as not significant under Executive Order 12866, "Regulatory Planning and Review," and therefore, OMB has not reviewed this rule and analysis of the costs and benefits is not required under either Executive Order 12866 or 13563.

Executive Order 13771, "Reducing Regulation and Controlling Regulatory Costs," requires that in order to manage the private costs required to comply with Federal regulations that for every new significant or economically significant regulation issued, the new costs must be offset by savings from deregulatory actions. As this rule is designated as not significant, it is not subject to Executive Order 13771. In a

general response to the requirements of Executive Order 13777, USDA created a Regulatory Reform Task Force, and USDA agencies were directed to remove barriers, reduce burdens, and provide better customer service both as part of the regulatory reform of existing regulations and as an ongoing approach. FCIC reviewed this regulation and made changes to improve any provision that was determined to be outdated, unnecessary, or ineffective.

Clarity of the Regulation

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this rule, we invite your comments on how to make the rule easier to understand. For example:

- Are the requirements in the rule clearly stated? Are the scope and intent of the rule clear?
- Does the rule contain technical language or jargon that is not clear?
- Is the material logically organized?
- Would changing the grouping or order of sections or adding headings make the rule easier to understand?
- Could we improve clarity by adding tables, lists, or diagrams?
- Would more, but shorter, sections be better? Are there specific sections that are too long or confusing?
- What else could we do to make the rule easier to understand?

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by SBREFA, generally requires an agency to prepare a regulatory analysis of any rule whenever an agency is required by APA or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because as noted above, this rule is exempt from APA and no other law requires that a proposed rule be published for this rulemaking initiative.

Environmental Review

In general, the environmental impacts of rules are to be considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347) and the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508). FCIC conducts programs and activities that have been determined to have no individual or cumulative effect on the human environment. As

specified in 7 CFR 1b.4, FCIC is categorically excluded from the preparation of an Environmental Analysis or Environmental Impact Statement unless the FCIC Manager (agency head) determines that an action may have a significant environmental effect. The FCIC Manager has determined this rule will not have a significant environmental effect. Therefore, FCIC will not prepare an environmental assessment or environmental impact statement for this action and this rule serves as documentation of the programmatic environmental compliance decision.

Executive Order 12372

Executive Order 12372, “Intergovernmental Review of Federal Programs,” requires consultation with State and local officials that would be directly affected by proposed Federal financial assistance. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice regarding 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities in this rule are excluded from the scope of Executive Order 12372.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, “Civil Justice Reform.” This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. Before any judicial actions may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR part 11 are to be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, “Federalism.” The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments.” Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

RMA has assessed the impact of this rule on Indian Tribes and determined that this rule does not, to our knowledge, have Tribal implications that require Tribal consultation under E.O. 13175. The regulation changes do not have Tribal implications that preempt Tribal law and are not expected to have a substantial direct effect on one or more Indian Tribes. If a Tribe requests consultation, RMA will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by Congress.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions of State, local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including cost benefits analysis, for proposed and final rules with Federal mandates that may result in expenditures of \$100 million or more in any 1 year for State, local or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Federal Assistance Program

The title and number of the Federal Domestic Assistance Program listed in the Catalog of Federal Domestic

Assistance to which this rule applies is No. 10.450—Crop Insurance.

Paperwork Reduction Act of 1995

In accordance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, subchapter I), the rule does not change the information collection approved by OMB under control numbers 0563–0053.

E-Government Act Compliance

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

List of Subjects

7 CFR Part 407

Acreage allotments, Administrative practice and procedure, Barley, Corn, Cotton, Crop insurance, Peanuts, Reporting and recordkeeping requirements, Sorghum, Soybeans, Wheat.

7 CFR Part 457

Acreage allotments, Crop insurance, Reporting and recordkeeping requirements.

For the reasons discussed above, FCIC amends 7 CFR parts 407 and 457, effective for the 2021 crop year for crops with a contract change date on or after June 30, 2020, and for the 2022 and succeeding crop years for all other crops, as follows:

PART 407—AREA RISK PROTECTION INSURANCE REGULATIONS

■ 1. The authority citation for 7 CFR part 407 continues to read as follows:

Authority: 7 U.S.C. 1506(l) and 1506(o).

■ 2. Amend § 407.9 as follows:

■ a. In the introductory text, remove the year “2017” and add “2021” in its place;

■ b. Under the second heading for “[FCIC Policies]”, revise the second and third paragraphs;

■ c. Under the second heading for “[Reinsured Policies]”, revise the second and fourth paragraphs;

■ d. In section 1:

■ i. In the definition of “actuarial documents”, remove the phrase “RMA’s website, <http://www.rma.usda.gov/>,” and add “RMA’s website” in its place;

■ ii. In the definition of “production report”, remove the words “FCIC approved procedures” and add “FCIC procedures” in their place;

■ iii. In the definition of “RMA’s website”, remove the website address

“<http://www.rma.usda.gov/>” and add “www.rma.usda.gov” in its place; and

■ iv. Revise the definitions of “second crop” and “veteran farmer or rancher;”

■ e. In section 2:

■ i. Add paragraphs (j)(3) and (4);

■ ii. Revise paragraph (k)(2)(iii)(B)(1);

■ iii. In paragraph (k)(2)(iii)(C)

introductory text, remove the words

“FCIC issued procedures” and add “FCIC procedures” in their place;

■ iv. In paragraph (k)(2)(iii)(C)(1)(ii), remove the word “or” at the end of the paragraph;

■ v. In paragraph (k)(2)(iii)(C)(1)(iii), add the word “or” at the end of the paragraph; and

■ vi. Add paragraph (k)(2)(iii)(C)(1)(iv);

■ f. In section 3, in paragraph (d), remove the word “provided” and add “notified” in its place;

■ g. In section 7, in paragraph (i)(2)(i)(A), remove the words “FCIC approved procedures” and add “FCIC procedures” in their place;

■ h. In section 13:

■ i. In paragraph (c)(4), remove the period at the end of the paragraph and add a semicolon in its place;

■ ii. Add paragraphs (c)(5) and (6);

■ iii. Revise paragraph (d) introductory text; and

■ iv. Add paragraph (d)(3);

■ i. In section 20, in paragraph (b)(3), remove the words “Will be conclusively” and add “Conclusively” in their place.

The revisions and additions read as follows:

§ 407.9 Area risk protection insurance policy.

This insurance is available for the 2021 and succeeding years.

* * * * *

[FCIC Policies]

* * * * *

This is an insurance policy issued by FCIC, under the provisions of the Federal Crop Insurance Act (7 U.S.C. 1501–1524) (Act). All provisions of the policy and rights and responsibilities of the parties are specifically subject to the Act. The provisions of the policy may not be waived or modified in any way by us, your insurance agent, or any employee of USDA. FCIC procedures (handbooks, underwriting rules, manuals, memoranda, and bulletins), and published on the Risk Management Agency’s (RMA) website at www.rma.usda.gov or a successor website, will be used in the administration of this policy, including the adjustment of any loss or claim submitted under this policy. Throughout this policy, “you” and “your” refer to the insured shown on

the accepted application and “we,” “us,” and “our” refer to FCIC. Unless the context indicates otherwise, the use of the plural form of a word includes the singular and the singular form of the word includes the plural.

AGREEMENT TO INSURE: In return for the commitment to pay a premium, and subject to all of the provisions of this policy, we agree with you to provide the insurance as stated in this policy. If there is a conflict between the Act, the regulations in 7 CFR chapter IV, and FCIC procedures, the order of precedence is: (1) The Act; (2) the regulations; and (3) FCIC procedures. If there is a conflict between the policy provisions in 7 CFR part 407 and the administrative regulations in 7 CFR part 400, the policy provisions published at 7 CFR part 407 apply. The order of precedence for the policy is: (1) The Catastrophic Risk Protection Endorsement, as applicable; (2) Special Provisions; (3) actuarial documents; (4) the applicable Commodity Exchange Price Provisions; (5) the Crop Provisions; and (6) these Basic Provisions.

[Reinsured Policies]

* * * * *

This insurance policy is reinsured by FCIC under the provisions of Subtitle A of the Federal Crop Insurance Act (7 U.S.C. 1501–1524) (Act). All provisions of the policy and rights and responsibilities of the parties are specifically subject to the Act. The provisions of the policy may not be waived or varied in any way by us, our insurance agent or any other contractor or employee of ours, or any employee of USDA. We will use FCIC procedures (handbooks, underwriting rules, manuals, memoranda, and bulletins), published on the Risk Management Agency (RMA’s) website at www.rma.usda.gov or a successor website, in the administration of this policy, including the adjustment of any loss or claim submitted under this policy. In the event that we cannot pay your loss because we are insolvent or are otherwise unable to perform our duties under our reinsurance agreement with FCIC, FCIC will become your insurer, make all decisions in accordance with the provisions of this policy, including any loss payments, and be responsible for any amounts owed. No state guarantee fund will be liable for your loss.

* * * * *

AGREEMENT TO INSURE: In return for the commitment to pay a premium, and subject to all of the provisions of this policy, we agree with you to provide the insurance as stated in this

policy. If there is a conflict between the Act, the regulations in 7 CFR chapter IV, and FCIC procedures, the order of precedence is: (1) The Act; (2) the regulations; and (3) FCIC procedures. If there is a conflict between the policy provisions in 7 CFR part 407 and the administrative regulations in 7 CFR part 400, the policy provisions in 7 CFR part 407 apply. The order of precedence among the policy is: (1) The Catastrophic Risk Protection Endorsement, as applicable; (2) Special Provisions; (3) actuarial documents; (4) Commodity Exchange Price Provisions; (5) the Crop Provisions; and (6) these Basic Provisions.

* * * * *

1. Definitions

* * * * *

Second crop. With respect to a single crop year, the next occurrence of planting any commodity for harvest following a first insured crop on the same acreage. The second crop may be the same or a different agricultural commodity as the first insured crop, except the term does not include a replanted crop. If following a first insured crop, a cover crop is planted on the same acreage and harvested for grain or seed, it is considered to be a second crop. A cover crop that is covered by FSA’s noninsured crop disaster assistance program (NAP) or receives other USDA benefits associated with forage crops will be considered a second crop. A crop meeting the conditions in this definition is considered to be a second crop regardless of whether or not it is insured.

* * * * *

Veteran farmer or rancher. (1) An individual who has served active duty in the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, including the reserve components; was discharged or released under conditions other than dishonorable; and:

(i) Has not operated a farm or ranch;

(ii) Has operated a farm or ranch for not more than 5 years; or

(iii) First obtained status as a veteran during the most recent 5-year period.

(2) A person, other than an individual, may be eligible for veteran farmer or rancher benefits if all substantial beneficial interest holders qualify individually as a veteran farmer or rancher in accordance with paragraph (1) of this definition. A spouse’s veteran status does not impact whether an individual is considered a veteran farmer or rancher.

* * * * *

2. Life of Policy, Cancellation, and Termination

* * * * *

(j) * * *

(3) For this agricultural commodity policy, your premium and administrative fees will be offset from any indemnity payment due to you even if it is prior to the premium billing date.

(4) For any other agricultural commodity policy insured with us and it is:

(i) Prior to the premium billing date, and you agree, your premium and administrative fees will be offset from any indemnity payment due to you; or

(ii) On or after the premium billing date, your premium and administrative fees will be offset from any indemnity payment due to you.

(k) * * *

(2) * * *

(iii) * * *

(B) * * *

(1) In accordance with 7 CFR part 400, subpart U, and FCIC procedures, you provide documentation that your inadvertent failure to pay your debt is due to an unforeseen or unavoidable event or other extenuating circumstances that created the inadvertent failure for you to make timely payment;

* * * * *

(iv) For previously executed written payment agreements, you made the full payment of the scheduled payment amount owed within 15 calendar days after the missed payment date.

* * * * *

13. Indemnity and Premium Limitations

* * * * *

(c) * * *

(5) If you do not have records of acreage and production specific to the double cropped acreage, as required in section 13(h)(4), but instead have records that combine production from acreage you double cropped with records of production from acreage you did not double crop, we will allocate the first and second crop production to the specific acreage in proportion to the liability for the acreage that was and was not double cropped; and

(6) With respect to double cropped acreage for which one of the crops you have double cropped is insured under a plan of insurance not covered under these Basic Provisions, each insured crop must follow its own Basic Provisions, Crop Provisions, and Special Provisions to determine if the double cropping requirements have been met. If the double cropping requirements in the applicable Basic Provisions, Crop Provisions, or Special Provisions have

not been met for each insured crop, section 13(a) of these Basic Provisions apply.

(d) If you provided acceptable records in accordance with section 13(c), your double cropping history is limited to the highest number of acres double cropped within the applicable four-year period as determined in section 13(c)(4).

* * * * *

(3) If you acquired additional land for the current crop year and the following calculation results in a greater number of double cropping acres than determined in section 13(c), you may apply the percentage of acres that you have previously double cropped to the total cropland acres that you are farming this year (if greater):

(i) Determine the number of acres of the first insured crop that were double cropped in each of the years for which double cropping records are provided (for example, records are provided showing: 100 acres of wheat planted in 2019 and 50 of those acres were double cropped with soybeans; and 100 acres of wheat planted in 2020 and 70 of those acres were double cropped with soybeans);

(ii) Divide each result of section 13(d)(3)(i) by the number of acres of the first insured crop that were planted in each respective year (in the example in section 13(d)(3)(i), 50 divided by 100 equals 50 percent of the first insured crop acres that were double cropped in 2019 and 70 divided by 100 equals 70 percent of the first insured crop acres that were double cropped in 2020);

(iii) Add the results of section 13(d)(3)(ii) and divide by the number of years the first insured crop was double cropped (in the example in section 13(d)(3)(i), 50 plus 70 equals 120 divided by 2 equals 60 percent); and

(iv) Multiply the result of section 13(d)(3)(iii) by the number of insured acres of the first insured crop (in the example in section 13(d)(3)(i), 60 percent multiplied by the number of wheat acres insured in 2021);

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 3. The authority citation for part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l) and 1506(o).

■ 4. Amend § 457.8 as follows:

■ a. Under the heading “FCIC Policies”, revise the first and third paragraphs;

■ b. Under the heading “Reinsured Policies”, revise the first and third paragraphs;

■ c. In section 1:

■ i. In the definition of “approved yield”, in the last sentence, remove the

words “FCIC approved procedures” and add “FCIC procedures” in their place;

■ ii. Revise the definition of “basic unit”;

■ iii. In the definition of “claim for indemnity”, remove the words “FCIC issued procedures” and add “FCIC procedures” in their place;

■ iv. In the definition of “production report”, in the last sentence, remove the words “FCIC approved procedures” and add “FCIC procedures” in their place;

■ v. In the definition of “RMA’s website”, remove the website address “<http://www.rma.usda.gov>” and add “www.rma.usda.gov” in its place; and

■ vii. Revise the definitions of “second crop” and “veteran farmer or rancher”.

■ d. In section 2:

■ i. Add paragraphs (e)(3) and (4);

■ ii. In paragraph (f)(2)(i)(D), remove the “; or” at the end of the paragraph and add a period in its place;

■ iii. Revise paragraph (f)(2)(iii)(B)(1);

■ iv. In paragraph (f)(2)(iii)(C)

introductory text, remove the words

“FCIC issued procedures” and add

“FCIC procedures” in their place;

■ v. In paragraph (f)(2)(iii)(C)(1)(ii), remove the word “or” at the end of the paragraph;

■ vi. In paragraph (f)(2)(iii)(C)(1)(iii),

remove the period at the end of the paragraph and add “; or” in its place;

and

■ vii. Add paragraph (f)(2)(iii)(C)(1)(iv);

■ e. In section 3, in paragraph (l) introductory text, add a comma following the phrase “or veteran farmer or rancher”;

■ f. In section 4:

■ i. Revise paragraph (c); and

■ ii. Add paragraph (d);

■ g. In section 6, in paragraph (a)(3)(ii)(C), add the word “and” at the end of the paragraph;

■ h. In section 7, in paragraph

(h)(2)(i)(A), remove the words “FCIC approved procedures” and add “FCIC procedures” in their place;

■ i. In section 14:

■ i. Revise paragraphs (b) introductory text and (b)(5) introductory text; and

■ ii. In paragraph (e)(1)(i), remove the words “can not” and add “cannot” in their place;

■ j. In section 15:

■ i. In paragraph (c), remove the words “fire and hail” and add “hail and fire” in their place;

■ ii. Revise paragraph (g)(3)(i);

■ iii. Revise paragraph (h)(5)(i);

■ iii. Add paragraph (h)(7);

■ iv. Revise paragraph (i) introductory text; and

■ v. Add paragraph (i)(3);

■ k. In section 17:

■ i. In paragraph (e)(1)(i)(B)(3), remove the word “lease” and add “leased” in its place;

- ii. Add paragraph (e)(1)(iii)(C);
- iii. In paragraph (f)(1)(iii), remove the word “contact” and add “contract” in its place;
- iv. Revise paragraph (f)(4)(ii);
- v. In paragraph (f)(5)(ii), remove the words “or cover”; and
- vi. Revise paragraph (h)(4);
- l. In section 33, in paragraph (b)(3), remove the words “Will be conclusively” and add “Conclusively” in their place;
- m. In section 34:
- i. In paragraph (a)(4)(i)(B), remove the words “FCIC issued procedures” and add “FCIC procedures” in their place;
- ii. Revise paragraph (a)(4)(viii)(C);
- iii. In paragraph (c)(1)(i), remove the words “FCIC issued procedures” and add “FCIC procedures” in their place; and
- iv. In paragraph (c)(1)(ii), remove the words “FCIC issued procedure” and add “FCIC procedures” in their place; and
- n. Revise section 36.

The revisions and additions read as follows:

§ 457.8 The application and policy.

* * * * *

FCIC Policies

This is an insurance policy issued by the Federal Crop Insurance Corporation (FCIC). The provisions of the policy may not be waived or modified in any way by us, your insurance agent or any employee of USDA unless the policy specifically authorizes a waiver or modification by written agreement. FCIC procedures (handbooks, manuals, memoranda, and bulletins), published on the RMA’s website at www.rma.usda.gov or a successor website will be used in the administration of this policy, including the adjustment of any loss or claim submitted under this policy.

* * * * *

AGREEMENT TO INSURE: In return for the payment of the premium, and subject to all of the provisions of this policy, we agree with you to provide the insurance as stated in this policy. If there is a conflict between the Act, the regulations in 7 CFR chapter IV, and FCIC procedures, the order of precedence is: (1) The Act; (2) the regulations; and (3) FCIC procedures. If there is a conflict between the policy provisions in 7 CFR part 457 and the administrative regulations in 7 CFR part 400, the policy provisions in 7 CFR part 457 control. If a conflict exists among the policy provisions, the order of precedence is: (1) The Catastrophic Risk Protection Endorsement, as applicable; (2) the Special Provisions; (3) the Commodity Exchange Price Provisions,

as applicable; (4) the Crop Provisions; and (5) these Basic Provisions.

Reinsured Policies

This insurance policy is reinsured by the Federal Crop Insurance Corporation (FCIC) under the provisions of the Federal Crop Insurance Act (Act) (7 U.S.C. 1501–1524). All provisions of the policy and rights and responsibilities of the parties are specifically subject to the Act. The provisions of the policy may not be waived or varied in any way by us, our insurance agent or any other contractor or employee of ours, or any employee of USDA unless the policy specifically authorizes a waiver or modification by written agreement. We will use FCIC procedures (handbooks, manuals, memoranda and bulletins) published on the RMA’s website at www.rma.usda.gov or a successor website, in the administration of this policy, including the adjustment of any loss or claim submitted under this policy. In the event that we cannot pay your loss because we are insolvent or are otherwise unable to perform our duties under our reinsurance agreement with FCIC, your claim will be settled in accordance with the provisions of this policy and FCIC will be responsible for any amounts owed. No state guarantee fund will be liable for your loss.

* * * * *

AGREEMENT TO INSURE: In return for the payment of the premium, and subject to all of the provisions of this policy, we agree with you to provide the insurance as stated in this policy. If there is a conflict between the Act, the regulations in 7 CFR chapter IV, and FCIC procedures, the order of precedence is: (1) The Act; (2) the regulations; and (3) FCIC procedures. If there is a conflict between the policy provisions in 7 CFR part 457 and the administrative regulations in 7 CFR part 400, the policy provisions in 7 CFR part 457 apply. If a conflict exists among the policy, the order of precedence is: (1) The Catastrophic Risk Protection Endorsement, as applicable; (2) the Special Provisions; (3) the actuarial documents; (4) the Commodity Exchange Price Provisions, as applicable; (5) the Crop Provisions; and (6) these Basic Provisions.

* * * * *

1. Definitions

* * * * *

Basic unit. All insurable acreage of the insured crop in the county on the date coverage begins for the crop year excluding acreage reported and insured as an enterprise unit in which the

remaining insurable acreage is reported and insured as a basic or optional unit:

(1) In which you have 100 percent crop share; or

(2) That is owned by one person and operated by another person on a share basis. (Example: If, in addition to the land you own, you rent land from five landlords, three on a crop share basis and two on a cash basis, you would be entitled to four units; one for each crop share lease and one that combines the two cash leases and the land you own.) Land that would otherwise be one unit may, in certain instances, be divided according to guidelines contained in section 34 of these Basic Provisions and in the applicable Crop Provisions.

* * * * *

Second crop. With respect to a single crop year, the next occurrence of planting any agricultural commodity for harvest following a first insured crop on the same acreage. The second crop may be the same or a different agricultural commodity as the first insured crop, except the term does not include a replanted crop. If following a first insured crop, a cover crop is planted on the same acreage and harvested for grain or seed it is considered to be a second crop. A cover crop that is covered by FSA’s noninsured crop disaster assistance program (NAP) or receives other USDA benefits associated with forage crops will be considered a second crop. A crop meeting the conditions stated in this definition will be considered to be a second crop regardless of whether or not it is insured.

* * * * *

Veteran farmer or rancher. (1) An individual who has served active duty in the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, including the reserve components; was discharged or released under conditions other than dishonorable; and:

(i) Has not operated a farm or ranch;

(ii) Has operated a farm or ranch for not more than 5 years; or

(iii) First obtained status as a veteran during the most recent 5-year period.

(2) A person, other than an individual, may be eligible for veteran farmer or rancher benefits if all substantial beneficial interest holders qualify individually as a veteran farmer or rancher in accordance with paragraph (1) of this definition. A spouse’s veteran status does not impact whether an individual is considered a veteran farmer or rancher.

* * * * *

2. Life of Policy, Cancellation, and Termination

* * * * *

(e) * * *

(3) For this agricultural commodity policy, your premium and administrative fees will be offset from any indemnity or prevented planting payment due to you even if it is prior to the premium billing date.

(4) For any other agricultural commodity policy insured with us and it is:

(i) Prior to the premium billing date, and you agree, your premium and administrative fees will be offset from any indemnity or prevented planting payment due to you; or

(ii) On or after the premium billing date, your premium and administrative fees will be offset from any indemnity or prevented planting payment due to you.

(f) * * *

(2) * * *

(iii) * * *

(B) * * *

(1) In accordance with 7 CFR part 400, subpart U, and FCIC procedures, you provide documentation that your inadvertent failure to pay your debt is due to an unforeseen or unavoidable event or other extenuating circumstances that created the inadvertent failure for you to make timely payment;

* * * * *

(C) * * *

(1) * * *

(iv) For previously executed written payment agreements, you made the full payment of the scheduled payment amount owed within 15 calendar days after the missed payment date.

* * * * *

4. Contract Changes

* * * * *

(c) After the contract change date, all changes specified in section 4(b) will also be available upon request from your crop insurance agent.

(d) Not later than 30 days prior to the cancellation date for the insured crop you will be notified, in accordance with section 33, a copy of the changes to the Basic Provisions, Crop Provisions, Commodity Exchange Price Provisions, if applicable, and Special Provisions.

* * * * *

14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage

* * * * *

(b) You must provide a notice of loss in accordance with this section. Notice provisions:

* * * * *

(5) If you fail to submit a notice of loss in accordance with these notice provisions, any loss or prevented planting claim will be considered solely due to an uninsured cause of loss for the acreage for which such failure occurred, unless we determine that we have the ability to accurately adjust the loss. If we determine that we do not have the ability to accurately adjust the loss:

* * * * *

15. Production Included in Determining an Indemnity and Payment Reductions

* * * * *

(g) * * *

(3) * * *

(i) If a volunteer crop or cover crop is hayed, grazed, or cut for silage, haylage, or baleage from the same acreage, after the late planting period (or after the final planting date if a late planting period is not applicable) for the first insured crop in the same crop year, or is otherwise harvested any time after the late planting period (or after the final planting date if a late planting period is not applicable); or

* * * * *

(h) * * *

(5) * * *

(i) You have double cropped acreage in at least 2 of the last 4 crop years in which the first insured crop was grown; or

* * * * *

(7) With respect to double cropped acreage for which one of the crops you have double cropped is insured under a plan of insurance not covered under these Basic Provisions, each insured crop must follow its own Basic Provisions, Crop Provisions, and Special Provisions to determine if the double cropping requirements have been met. If the double cropping requirements in the applicable Basic Provisions, Crop Provisions, or Special Provisions have not been met for each insured crop, section 15(e) of these Basic Provisions applies.

(i) If you provided acceptable records in accordance with section 15(h), your double cropping history is limited to the highest number of acres double cropped within the applicable 4-year period as determined in section 15(h)(5):

* * * * *

(3) If you acquired additional land for the current crop year and the following calculation results in a greater number of double cropping acres than determined in 15(i), you may apply the percentage of acres that you have previously double cropped to the total cropland acres that you are farming this year (if greater):

(i) Determine the number of acres of the first insured crop that were double cropped in each of the years for which double cropping records are provided (for example, records are provided showing: 100 acres of wheat planted in 2019 and 50 of those acres were double cropped with soybeans; and 100 acres of wheat planted in 2020 and 70 of those acres were double cropped with soybeans);

(ii) Divide each result of section 15(i)(3)(i) by the number of acres of the first insured crop that were planted in each respective year (in the example in section 15(i)(3)(i), 50 divided by 100 equals 50 percent of the first insured crop acres that were double cropped in 2019 and 70 divided by 100 equals 70 percent of the first insured crop acres that were double cropped in 2020);

(iii) Add the results of section 15(i)(3)(ii) and divide by the number of years the first insured crop was double cropped (in the example in section 15(i)(3)(i), 50 plus 70 equals 120 divided by 2 equals 60 percent); and

(iv) Multiply the result of section 15(i)(3)(iii) by the number of insured acres of the first insured crop (in the example in section 15(i)(3)(i), 60 percent multiplied by the number of wheat acres insured in 2021);

* * * * *

17. Prevented Planting

* * * * *

(e) * * *

(1) * * *

(iii) * * *

(C) In the event that your contracted acreage or production for the current crop year is reduced, for a reason not solely due to the acreage being prevented from being planted, or you have no contracted acreage for the current crop year, and the reduction or lack of contract results in no remaining eligible acres to use on your total cropland acres in the county:

(1) You must first exhaust all other eligible acres;

(2) The number of eligible acres for the contracted crop will be determined based on the number of acres or amount of production you contracted in the county in the previous crop year, less the current year's contracted acreage or production, if applicable;

(3) The prevented planting payment and premium will be calculated in accordance with section 17(h)(2);

(4) If you did not have a processor contract in place for the previous crop year, no eligible contracted acreage exists for this purpose.

* * * * *

(f) * * *

(4) * * *

(ii) For the insured crop that is prevented from being planted, you provide records acceptable to us of acreage and production that show (your double cropping history is limited to the highest number of acres double cropped within the applicable four-year period):

(A) You have double cropped acreage in at least 2 of the last 4 crop years in which the insured crop that is prevented from being planted in the current crop year was grown (you may apply your history of double cropping to any acreage of the insured crop in the county (for example, if you have double cropped 100 acres of wheat and soybeans in the county and you acquire an additional 100 acres in the county, you can apply that history of double cropped acreage to any of the 200 acres in the county as long as it does not exceed 100 acres)); or

(B) The applicable acreage you are prevented from planting in the current crop year was double cropped for at least 2 of the last 4 crop years in which the insured crop that is prevented from being planted was grown. You may only use the history of double cropping for the same physical acres from which double cropping records were provided from one or more other producers (for example, if a neighbor has double cropped 100 acres of wheat and soybeans in the county and you acquire your neighbor's 100 double cropped acres and an additional 100 acres in the county, you can only apply your neighbor's history of double cropped acreage to the same 100 acres that your neighbor double cropped); and

* * * * *

(h) * * *

(4) Prevented planting coverage will be allowed as specified in section 17(h) only if the crop that was prevented from being planted meets all policy provisions, except for having an adequate base of eligible prevented planting acreage. Payment may be made based on crops other than those that were prevented from being planted even though other policy provisions, including but not limited to, processor contract and rotation requirements, have not been met for the crop whose eligible acres are being used. When you have exhausted eligible acres to provide prevented planting coverage for all insured cropland acres in your farming operation, you may use remaining eligible acres as established in section 17(e)(1)(iii)(C).

* * * * *

34. Units

(a) * * *

(4) * * *

(viii) * * *

(C) If you elected separate enterprise units for both irrigated and non-irrigated practices and we discover you do not qualify for an enterprise unit for the irrigated or non-irrigated practice and such discovery is made:

(1) On or before the acreage reporting date, you may elect to insure:

(i) One enterprise unit for all irrigated or non-irrigated practices provided you meet the requirements in section 34(a)(4), and basic or optional units for the other practice, whichever you report on your acreage report and qualify for;

(ii) One enterprise unit for all acreage of the crop in the county provided you meet the requirements in section 34(a)(4); or

(iii) Basic or optional units for all acreage of the crop in the county, whichever you report on your acreage report and qualify for; or

(2) At any time after the acreage reporting date, your unit structure will be one enterprise unit for all acreage of the crop in the county provided you meet the requirements in section 34(a)(4). Otherwise, we will assign the basic unit structure.

* * * * *

36. Yield Options

If provided in the actuarial documents, you may elect the following measures to increase your approved yield:

(a) Adjustments to actual yields within a database:

(1) You may exclude and replace one or more actual yields, on an individual actual yield basis, that due to an insurable cause of loss, are less than 60 percent of the applicable transitional yield.

(i) Each election made in section 36(a)(1) must be made on or before the production reporting date for the insured crop and each such election will remain in effect for succeeding crop years unless canceled by the production reporting date for the succeeding crop year. If you cancel an election, the actual yield will be used in the database. For example, if you elected to substitute yields in your database for the 2020 and 2021 crop year, for any subsequent crop year, you can elect to cancel the substitution for either or both crop years.

(ii) Each excluded actual yield will be replaced with a yield equal to 60 percent of the applicable transitional yield for the crop year in which the yield is being replaced, unless you qualify as a beginning farmer or rancher, or veteran farmer or rancher, in which case the excluded actual yield will be

replaced with a yield equal to 80 percent of the applicable transitional yield for the crop year in which the yield is being replaced. (For example, if you elect to exclude a 2020 crop year actual yield, the transitional yield in effect for the 2020 crop year in the county will be used. If you also elect to exclude a 2021 crop year actual yield, the transitional yield in effect for the 2021 crop year in the county will be used). The replacement yields will be used in the same manner as actual yields for the purpose of calculating the approved yield.

(iii) Once you have elected to exclude an actual yield from the database, the replacement yield will remain in effect until such time as that crop year is no longer included in the database unless this election is canceled in accordance with section 36(a)(1)(i).

(iv) Although your approved yield will be used to determine your amount of premium owed, the premium rate will be increased to cover the additional risk associated with the substitution of higher yields.

(2) You may exclude any actual yield for any crop year when FCIC determines for a county, or its contiguous counties, the per planted acre yield was at least 50 percent below the simple average of the per planted acre yield for the crop in the county for the previous 10 consecutive crop years.

(3) You may replace actual yields determined using your post-quality production amounts with actual yields determined using your pre-quality production amounts for previous crop years on an individual actual yield basis.

(i) Each election made in section 36(a)(3) must be made on or before the sales closing date for the insured crop and will remain in effect, unless canceled by the sales closing date for the succeeding crop year.

(ii) In order to replace post-quality actual yields for previous crop years, you must have filed a notice of loss due to an insured cause of loss for the crop year to be eligible.

(iii) Once the pre-quality actual yield replaces the post-quality actual yield, the pre-quality actual yield will remain in effect until such time as that crop year is no longer included in the database, unless this election is canceled in accordance with section 36(a)(3)(i).

(iv) Although your approved yield will be used to determine your amount of premium owed, the premium rate will be increased to cover the additional risk associated with the replacement of higher pre-quality reduction based actual yields.

(b) You may make adjustments to your approved yield by limiting a reduction to the approved APH yield to a maximum decline of 10 percent of the previous crop year's approved APH yield when such reduction is due to a decline in production resulting from a natural disaster or other insurable loss, as provided in FCIC procedures.

* * * * *

■ 5. Amend § 457.113 as follows:

■ a. In the introductory text, remove the year "2020" and add "2021" in its place;

■ b. In section 1 in the definition of "Not following another crop (NFAC)", remove the words "a crop" and add "another crop," in their place;

■ c. In section 2, revise paragraphs (a)(1) and (a)(4)(i) and (ii);

■ d. In section 8, revise the introductory text;

■ e. In section 12, in paragraph (d)(4), remove the cross reference "12(d) (2)" and add "12(d)(2)" in its place.

The revisions read as follows:

§ 457.113 Coarse grains crop insurance provisions.

* * * * *

2. Unit Division

(a) * * *

(1) You may elect one enterprise unit for all FAC cropping practices or one enterprise unit for all NFAC cropping practices, or separate enterprise units for both practices, unless otherwise specified in the Special Provisions. For example: You may choose an enterprise unit for all FAC acreage (soybeans irrigated practice and non-irrigated practice) and an enterprise unit for all NFAC acreage (soybeans irrigated practice and non-irrigated practice).

* * * * *

(4) * * *

(i) On or before the acreage reporting date, you may elect to insure:

(A) One enterprise unit for all FAC or NFAC cropping practices provided you meet the requirements in section 34(a)(4), and basic or optional units for the other cropping practice, whichever you report on your acreage report and qualify for; or

(B) One enterprise unit for all acreage of the crop in the county provided you meet the requirements in section 34(a)(4); or

(C) Basic or optional units for all acreage of the crop in the county, whichever you report on your acreage report and qualify for; or

(ii) At any time after the acreage reporting date, your unit structure will be one enterprise unit for all acreage of the crop in the county provided you

meet the requirements in section 34(a)(4). Otherwise, we will assign the basic unit structure.

* * * * *

8. Insurance Period

In accordance with the provisions of section 11 of the Basic Provisions, unless otherwise specified in the actuarial documents, the calendar date for the end of the insurance period is the date immediately following planting as follows:

* * * * *

Martin Barbre,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 2020-13831 Filed 6-26-20; 8:45 am]

BILLING CODE 3410-08-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Doc. No. AMS-SC-19-0081; SC-19-932-2 FR]

Olives Grown in California; Amendments to the Marketing Order No. 932

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends Marketing Order No. 932, which regulates the handling of olives grown in California. The amendment, which was proposed by the California Olive Committee (Committee), was approved by producers in a referendum. This action revises the marketing order's quorum requirement and makes a clarifying change stating that alternate members acting as members to form a quorum would also be eligible to cast votes.

DATES: This rule is effective July 29, 2020.

FOR FURTHER INFORMATION CONTACT:

Geronimo Quinones, Marketing Specialist, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or Email: Geronimo.Quinones@usda.gov.

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program,

AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or Email: Richard.Lower@usda.gov.

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This rule is issued under Marketing Order No. 932, as amended (7 CFR part 932), regulating the handling of olives grown in California. Part 932 (referred to as the "Order") is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act." Section 608c(17) of the Act and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900) authorize amendment of the Order through this informal rulemaking action.

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act (7 U.S.C. 608c(15)(A)), any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed

no later than 20 days after the date of entry of the ruling.

Section 1504 of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) (Pub. L. 110–246) amended section 8c(17) of the Act (7 U.S.C. 608c(17)), which in turn required the addition of supplemental rules of practice to 7 CFR part 900 (73 FR 49307; August 21, 2008). The amendment of section 8c(17) of the Act and additional supplemental rules of practice authorize the use of informal rulemaking (5 U.S.C. 553) to amend Federal fruit, vegetable, and nut marketing agreements and orders. USDA may use informal rulemaking to amend marketing orders based on the nature and complexity of the proposed amendments, the potential regulatory and economic impacts on affected entities, and any other relevant matters.

The Agricultural Marketing Service (AMS) considered these factors and has determined that amending the Order as proposed could appropriately be accomplished through informal rulemaking.

The proposed amendment was unanimously recommended by the Committee following deliberations at a public meeting held on July 29, 2019. A proposed rule soliciting comments on the amendment was issued on November 1, 2019, and published in the **Federal Register** on November 6, 2019 (84 FR 59736). No comments were received. As a result, no changes to the proposed rule were made. A “proposed rule and referendum order” was then issued on February 21, 2020, and published in the **Federal Register** on February 27, 2020 (85 FR 11312). This document directed that a referendum among California olive producers be conducted March 9, 2020, through March 20, 2020, to determine whether they favored the proposal. To become effective, the amendment had to be approved by two-thirds of producers voting or by those producers voting in the referendum who represented at least two-thirds of the volume of California olives.

The amendment was favored by 86 percent of the producers voting and by 96 percent of the volume represented in the referendum; both calculations exceed the two-thirds requirement.

The amendment in this final rule changes the Committee’s quorum requirements. The amendment also makes a clarifying change that alternate members acting as members to form a quorum would also be eligible to cast votes.

Final Regulatory Flexibility Analysis

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

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

There are approximately 900 producers of olives in the production area and two handlers subject to regulation under the Order. The Small Business Administration (SBA) defines small agricultural producers as those having annual receipts of less than \$1,000,000, and small agricultural service firms as those whose annual receipts are less than \$30,000,000 (13 CFR 121.201).

According to the National Agricultural Statistics Service (NASS) data, as of June 2019 the average price to producers for the 2018 crop year was \$766.00 per ton, and total assessable volume for the 2018 crop year was 17,953 tons. Based on production, the total number of California olive producers, and price paid to those producers, the average annual producer revenue is less than \$1,000,000 (\$766.00 times 17,953 tons equals \$13,751,998 divided by 900 producers equals an average annual producer revenue of \$15,280.00). Therefore, most olive producers may be classified as small entities. Both handlers may be classified as large entities under the SBA’s definitions because their annual receipts are greater than \$30,000,000.

The amendment, which was unanimously recommended by the Committee at a public meeting on July 29, 2019, will change the Committee’s quorum requirement. A clarifying change stating that alternate members acting as members to form a quorum would be eligible to cast votes will also be made.

This amendment will have no direct economic effect on producers or handlers. The number of producers and handlers operating in the industry has decreased significantly since the Order was established in 1965, dropping from 2,500 to 900 (64 percent) and from 28 to 2 (93 percent), respectively. Industry consolidation has made it difficult to

find enough members to fill positions on the Committee.

The Committee considered alternatives to the proposal, including making no changes. AMS believes the proposal is justified and necessary to ensure the Committee’s ability to locally administer the program. Revising the quorum requirement, will help ensure a more efficient and orderly flow of business.

Paperwork Reduction Act

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

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

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

The Committee’s meetings were widely publicized throughout the California olive production area. All interested persons were invited to attend the meetings and encouraged to participate in Committee deliberations on all issues. The Committee meetings were public, and all entities, both large and small, were encouraged to express their views on these proposals.

A proposed rule concerning this action was published in the **Federal Register** on November 6, 2019 (84 FR 59736). Copies of the proposed rule were mailed or sent via facsimile to all Committee members and all interested parties. The proposed rule was made available through the internet by USDA and the Office of the **Federal Register**. A 30-day comment period ending December 6, 2019, was provided to allow interested persons to respond to the proposals. No comments were received; therefore, no changes were made to the proposed amendment.

A proposed rule and referendum order was then issued on February 21, 2020, and published in the **Federal Register** on February 27, 2020 (85 FR

11312). This document directed that a referendum among California olive producers be conducted March 9, 2020, through March 20, 2020, to determine whether they favored the proposal. To become effective, the amendment had to be approved by two-thirds of producers voting or by those producers voting in the referendum who represented at least two-thirds of the volume of California olives.

The amendment was favored by 86 percent of the producers voting and by 96 percent of the volume represented; both exceeding the two-thirds requirement.

The amended marketing agreement was subsequently mailed to all olive handlers in the production area for their approval. The marketing agreement was not approved by handlers representing more than 50 percent of the volume of olives handled by all handlers during the representative period. Consequently, no companion handler agreement will be established.

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

Order Amending the Order Regulating the Olives Grown in the California ¹

Findings and Determinations

(a) Findings and Determinations Upon the Basis of the Rulemaking Record.

The findings hereinafter set forth are supplementary to the findings and determinations which were previously made in connection with the issuance of the Order; and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

1. The Order, as amended, and as hereby further amended, and all of the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

2. The Order, as amended, and as hereby further amended, regulates the handling of olives grown in California in the same manner as, and is applicable only to, persons in the respective classes

of commercial and industrial activity specified in the Order;

3. The Order, as amended, and as hereby further amended, is limited in application to the smallest regional production area that is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

4. The Order, as amended, and as hereby further amended, prescribes, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of olives produced in the production area; and

5. All handling of olives produced in the production area as defined in the Order is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) Determinations.

It is hereby determined that:

1. Handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping of olives covered under the Order) who during the period August 1, 2018, through July 31, 2019, handled not less than 50 percent of the volume of such olives covered by said Order, as hereby amended, have signed an amended marketing agreement; and

2. The issuance of this amendatory order, further amending the aforesaid Order, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of approval and who, during the period of August 1, 2018, through July 31, 2019, were engaged within the production area in the production of such olives. Such producers also produced for market at least two-thirds of the volume of such commodity represented in the referendum.

3. The issuance of this amendatory order together with a signed marketing agreement advances the interests of growers of olives in the production area pursuant to the declared policy of the Act.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, all handling of olives grown in California shall be in conformity to, and in compliance with, the terms and conditions of the said Order as hereby proposed to be amended as follows:

The provisions amending the Order contained in the proposed rule issued by the Administrator on November 1, 2019, and published in the **Federal**

Register on November 6, 2019, (84 FR 59736) will be and are the terms and provisions of this order amending the Order and are set forth in full herein.

List of Subjects in 7 CFR Part 932

Olives, Marketing agreements, Reporting and recordkeeping requirements.

Bruce Summers,
Administrator, Agricultural Marketing Service.

PART 932—OLIVES GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 932 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 932.36 [Amended]

■ 2. Revise § 932.36 to read as follows:

§ 932.36 Procedure.

Decisions of the committee shall be by majority vote of the members, including alternates acting as members, present and voting, and a quorum must be present: *Provided*, That decisions requiring a recommendation to the Secretary on matters pertaining to grade and size regulations shall require at least 10 affirmative votes, at least 5 of which must be from producer members and at least 5 of which must be from handler members and, if the committee is increased by the addition of a public member, at least 11 affirmative votes shall be required, at least 5 of which must be from producer members and at least 5 of which must be from handler members. A quorum shall consist of at least 10 members, including alternates acting as members, and, if the committee is increased by the addition of a public member, a quorum shall consist of at least 11 members, including alternates acting as members. Except in case of an emergency, a minimum of 5 days advance notice shall be given with respect to any meeting of the committee. In case of an emergency, to be determined within the discretion of the chairman of the committee, as much advance notice of a meeting as is practicable in the circumstances shall be given. The committee may vote by mail or telegram upon due notice to all members, but any proposition to be so voted upon first shall be explained accurately, fully, and identically by mail or telegram to all members. When voted on by such method, at least 14 affirmative votes, of which seven shall be producer member votes and seven shall be handler member votes, shall be required for adoption and, if the committee is increased by the addition of a public member, votes by mail or

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

telegram shall require at least 15 affirmative votes, of which at least 7 shall be producer member votes and at least 7 shall be handler member votes. The committee may recommend for the Secretary's approval changes in the number of affirmative votes required for adoption of any proposition voted upon by means of a mail or telegram ballot: *Provided*, That the number of affirmative votes required for adoption shall not be less than 10, and in any case an equal number of producer member and handler member votes shall be required for adoption and, if the committee is increased by the addition of a public member, the number of affirmative votes required for adoption shall be increased by 1.

[FR Doc. 2020-12884 Filed 6-26-20; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 61, 63, 65, 91, 107, 125, and 141

[Docket No.: FAA-2020-0446; Amdt. No(s). 21-102, 61-145, 63-43, 65-60, 91-357, 107-3, 125-69, and 141-21]

RIN 2120-AL64

Limited Extension of Relief for Certain Persons and Operations During the Coronavirus Disease 2019 (COVID-19) Public Health Emergency

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

ACTION: Final rule.

SUMMARY: This final rule amends the regulatory relief originally provided in the Relief for Certain Persons and Operations during the Coronavirus Disease 2019 (COVID-19) final rule. Other than relief for medical certificate duration, the relief in this final rule applies to a new population of airmen and does not extend the relief provided in the original Special Federal Aviation Regulation (SFAR). The amended relief applies to new persons who may have challenges complying with certain training, recent experience, testing, and checking requirements. This relief allows operators to continue to use pilots and other crewmembers in support of essential operations during this extended period. This SFAR also provides regulatory relief to additional persons unable to meet duration and renewal requirements due to the public health emergency.

DATES: Effective June 25, 2020, through March 31, 2021.

ADDRESSES: For information on where to obtain copies of rulemaking documents and other information related to this final rule, see "How to Obtain Additional Information" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action for pilots, contact Craig Holmes, General Aviation and Commercial Division; Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267-1100; email 9-AVS-AFS800-COVID19-Correspondence@faa.gov. For technical questions concerning this action for mechanics and special flight permits, contact Kevin Morgan, Aircraft Maintenance Division; Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267-1675; email Kevin.Morgan@faa.gov. For technical questions concerning this action for aircraft dispatchers and flight engineers, contact Theodora Kessarar and Sheri Pippin, Air Transportation Division, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267-8166; email 9-AVS-AFS200-COVID-Exemptions@faa.gov.

SUPPLEMENTARY INFORMATION:

Good Cause for Immediate Adoption

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C.) authorizes agencies to dispense with notice and comment procedures for rules when the agency for "good cause" finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." In addition, section 553(d) of the APA requires that agencies publish a rule not less than 30 days before its effective date, except a substantive rule that relieves a restriction or "as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(1) and (3).

The FAA finds good cause under 5 U.S.C. 553(b)(3)(B) to waive prior notice and the opportunity for public comment. The provisions in this final rule provide temporary relief to persons who have been unable to meet certain requirements during the national emergency concerning COVID-19. Without this final rule, certain individuals will not be able to continue exercising privileges in support of essential operations due to their inability to satisfy certain training, recent experience, testing, and checking

requirements. In addition, other individuals may be unable to satisfy certain requirements due to a reduced availability of personnel that are able to conduct routine aviation activities. In other instances, such activities may be contrary to State and local directives that continue certain restrictions as they implement phased recovery plans.

The FAA recognizes that there are aviation operations outside of air carrier and commercial operations conducted under part 119 of title 14 of the Code of Federal Regulations (14 CFR) that are critical, including operations that support essential services and flights that support the COVID-19 public health emergency response efforts. These operations are likely to face disruption due to a decreased supply of qualified pilots resulting from the effects of the COVID-19 public health emergency including the reduced number of personnel available to administer required training, checking, and testing. Without the relief in this SFAR, beginning July 1, 2020, and with each month thereafter, a new group of pilots will become unavailable to perform critical operations due to an inability to comply with regulatory requirements. This SFAR will provide temporary relief to certain individuals whose qualifications would otherwise lapse, to ensure there are a sufficient number of qualified personnel available to conduct essential aviation activities during this period. The FAA finds that this temporary action is needed to enable individuals to continue to exercise their airman certificate privileges during the immediate period following the initial COVID-19 public health emergency.

This action is also needed to provide immediate notification to individuals facing impending expiration dates for certificates, endorsements, and test results.¹ With the cessation of many non-essential aviation training and testing activities, many individuals have been unable to complete certain activities before encountering expiration dates. Absent the relief in this rule, persons may attempt to satisfy certain requirements to avoid economic burdens associated with non-compliance even though compliance could require acting contrary to national social distancing guidelines and restrictions in State and local directives associated with phased recovery efforts.

¹ Certain FAA regulations require a person to act within a particular timeframe in order to avoid an expiration. For example, a knowledge test result is generally valid for 24 months. A person must take the practical test before the knowledge test result expires or he or she must retake the knowledge test at additional cost.

In addition, as routine activities begin to resume, these individuals may be unable to satisfy requirements for reasons outside their control, such as the reduced number of personnel. This final rule provides immediate relief from certain duration and renewal requirements to reduce unnecessary risk of exposure and to assure persons that they will not endure economic burdens due to non-compliance with certain regulations.

Accordingly, the FAA finds that providing notice and an opportunity to comment is contrary to the public interest, because any delay in implementation of this final rule could result in disruption to critical aviation operations, and could increase the incidence of exposure during this public health emergency and into the period of recovery. Furthermore, the continually evolving public health situation as a result of, and State and local responses to, the COVID-19 public health emergency significantly limits how far in advance the FAA can usefully assess the need for the flexibilities provided for in this regulation.

In addition, for the same reasons stated above, the FAA finds good cause to waive the 30-day delay in effective date of this final rule under 5 U.S.C. 553(d)(3) for the SFAR provisions that address the training and qualification requirements. Because the APA also allows a substantive rule that relieves a restriction to become effective in less than 30 days after publication, the FAA finds that the SFAR provisions that provide relief by extending duration and renewal requirements may also be immediately effective. 5 U.S.C. 553(d)(1).

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code (49 U.S.C.). Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in 49 U.S.C. 106(f), which establishes the authority of the Administrator to promulgate regulations and rules; 49 U.S.C. 44701(a)(5), which requires the Administrator to promulgate regulations and minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security; and 49 U.S.C. 44703(a), which requires the Administrator to prescribe regulations

for the issuance of airman certificates when the Administrator finds, after investigation, that an individual is qualified for, and physically able to perform the duties related to, the position authorized by the certificate. This rulemaking provides airmen relief from certain training, recency, testing, and checking requirements, and establishes qualification requirements for airmen seeking to conduct essential operations during the COVID-19 public health emergency. For these reasons, this rulemaking is within the scope of the FAA's authority.

List of Abbreviations and Acronyms Frequently Used in This Document

ATP—Airline Transport Pilot
 COVID-19—Coronavirus Disease 2019
 IFR—Instrument Flight Rules
 PIC—Pilot in Command
 SIC—Second in Command
 UAS—Unmanned Aircraft Systems

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I. Overview of Final Rule

The FAA's regulations contain several training, recent experience, testing, and checking requirements that persons must comply with prior to exercising their airman or crewmember privileges. The FAA's regulations also contain duration requirements, such as those pertaining to medical certificates, the validity of knowledge tests, and general procedures for completing a practical test. Persons continue to have difficulty complying with several of the FAA's requirements because of the ongoing effects of the COVID-19 public health emergency, including the continuation of social distancing guidelines to prevent transmission of the virus. As a result, "lapses" in qualifications, which occur on the last day of each month, will affect an additional cohort of regulated parties at the end of each month even as stay-at-home advisories are lifted and replaced with State and local directives for phased recovery and routine activities resume. The regulatory relief provided in this final rule will amend the Relief for Certain Persons and Operations during the Coronavirus Disease 2019 (COVID-19) final rule (SFAR 118) (85 FR 26326) that was issued on April 30, 2020. This amendment will enable the continuity of aviation operations that are critical during the COVID-19 public health emergency and the recovery, including operations that support essential services and flights that support response efforts. In addition, the SFAR contains regulatory relief for persons who are unable to satisfy certain requirements to prevent those persons from enduring unnecessary economic burdens due to circumstances related to the public health emergency that are outside of their control. The FAA notes that, except for one instance related to the extension of medical certificates, no extension of relief has been granted to airmen who were eligible for relief in SFAR 118. The FAA also notes that, in this final rule, it is not expanding every area of relief provided in original SFAR 118. Although this amended SFAR will remain effective through March 31, 2021, that date does not reflect the duration for every provision. As a result, airman, operators, and air agencies should review the eligibility, conditions, and duration of the SFAR carefully to ensure compliance.

The table below summarizes the amendments to SFAR 118.

14 CFR	Area of relief	Original SFAR 118 relief	Amended SFAR 118–1 relief
61.55	Second-in-Command Pilot Qualifications.	Due March–June 2020 has 3 grace months to complete training.	Added pilots due July–Sept 2020.
61.56	Pilot Flight Review	Due March–June 2020 has 3 grace months to complete flight review.	Added pilots due July–Sept 2020.
61.57	Pilot Instrument Currency	9-month currency look-back period (instead of 6 months) for flights April 30–June 30, 2020.	Added look-back period for flights in July–Sept 2020.
61.58	Pilot-in-Command Proficiency Check	Due March–June 2020 has 3 grace months to complete check.	Added pilots due in July–Sept 2020.
Part 91, Subpart K	Crewmember Requirements	Due March–June 2020 has 3 grace months to complete training, recency, and checking.	Added crewmembers due in July–Sept 2020.
Part 91, Subpart N	Mitsubishi MU–2B Series Special Training, Experience, and Operating Requirements.	Due March–June 2020 has 3 grace months to complete training and flight review.	Added pilots due in July–Sept 2020.
107.65	Remote Pilot Aeronautical Knowledge Recency.	Due March–June 2020; privileges are renewed for 6 months following completion of online training.	Added remote pilots whose privileges are due to expire July–Sept 2020.
Part 125	Flight Crewmember Requirements	Due March–June 2020 has 3 grace months to complete training, recency, and checking.	Added crewmembers due in July–Sept 2020.
SFAR 73	Robinson R–22/R–44 Special Training and Experience Requirements.	Due March–June 2020 has 3 grace months to complete flight review.	Added pilots due in July–Sept 2020.
61.23	Pilot Medical Certificate Duration	Validity of March–May 2020 medicals extended to June 30, 2020.	Extend medical validity period by 3 calendar months from expiration applies to medicals expiring March–Sept 2020.
61.39	Pilot Knowledge Test Validity Period	Test results expiring March–June 2020 extended 3 calendar months.	Knowledge tests expiring in July–Sept 2020 added.
61.197	Flight Instructor Renewal	Certificate expiration March–May 2020 have until June 30, 2020 to renew.	No change.
SFAR 100–2	Relief for U.S. Military and Civilian Personnel Who are Assigned Outside the U.S. in Support of U.S. Armed Forces Operations.	Eligible persons that returned from overseas October 2019–March 2020 received an extension of 3 calendar months.	No change.
63.3	Flight Engineer Medical Certificate Duration.	Validity of March–May 2020 medicals extended to June 30, 2020.	Extend medical validity period by 3 calendar months from expiration applies to medicals expiring March–Sept 2020.
63.35	Flight Engineer Written Test Validity Period.	Test results expiring March–June 2020 extended 3 calendar months.	Written tests expiring in July–Sept 2020 added.
65.55	Dispatcher Knowledge Test Validity Period.	Test results expiring March–June 2020 extended 3 calendar months.	Knowledge tests expiring in July–Sept 2020 added.
65.71	Mechanic Applicant Testing Period ...	Testing period expires March–June 2020 extended 3 months.	Testing period expiring in July–Sept 2020 added.
65.93	Mechanic with Inspection Authorization Renewal.	3 additional months (April–June 2020) to meet year one renewal requirements.	No change.
65.117	Military Riggers	Eligible military parachute riggers who were released March–June 2019 have 3 additional months to make application.	No change.
141.5	Pilot School Certificate Requirements	Provisional certificate expires April–June 2020 extended to Dec 31, 2020 to apply for a pilot school certificate.	No change.
141.27	Pilot School Certificate Renewal Requirements.	Certificate expires April–June 2020 extended to Dec 31, 2020 to renew.	No change.
21.197	Special Flight Permit—Move Aircraft to Storage.	April 30–Dec 31, 2020	No change.

II. Background

In March 2020, the FAA received several letters from industry associations petitioning the FAA for relief and extensions from certain requirements during the COVID–19

public health emergency.² The content of the letters and the relief and flexibility sought were described in the Relief for Certain Persons and Operations during the Coronavirus

² These letters are available in the rulemaking docket.

Disease 2019 (COVID–19) final rule (SFAR 118) (85 FR 26326). On May 29, 2020, the FAA received an additional letter signed by six industry associations seeking to extend by a month the relief granted to those individuals eligible for

relief in SFAR 118.³ The letter also requested the FAA to expand the eligibility of the relief to additional groups of pilots, operators, and certificate holders who face expiring experience, testing, checking, duration, medical, and renewal requirements in July through September 2020.

The industry associations supported their position by acknowledging that while restrictions are easing in some areas, they continue to see burdens and restrictions that will continue to have a negative impact on the aviation community into the foreseeable future. The letter cited guidance from the Centers for Disease Control and Prevention (CDC), which continues to recommend limited contact with persons outside of one's household, and added that State and local governments are enforcing social distancing requirements. As a result, many aviation stakeholders seek to minimize their risk of exposure. The industry associations referenced FAA data, which indicates that "more than 57% of [designated pilot examiners] are over the age of 60, a demographic at higher risk of severe effects" from COVID-19 disease. The letter also cited aviation medical examiners either being unavailable or taking weeks to schedule appointments. They added that the additional flexibility will allow airmen and examiners to abide by CDC and individual State recommendations while stimulating the economy and moving medical and emergency supplies when needed. The industry associations believe the safety mitigations in SFAR 118 will continue to ensure an equivalent level of safety during the extensions.

The FAA also received a petition for exemption from Airlines for America (A4A) requesting additional relief from expiration dates for medical certificates beyond what SFAR 118 provided for part 121 pilots and flight engineers. Specifically, A4A requested that airmen holding medical certificates that were due to expire in April 2020 and May 2020 be extended for a total of three calendar months.⁴ In addition, A4A sought a 3-month extension to medicals that will expire in July through September 2020. It stated that such relief would facilitate an uninterrupted

stream of airmen for flight operations and ensure continuity of essential air service while reducing possible exposure to COVID-19 and allowing for flexibility in scheduling medical appointments. A4A added that, as access to aviation medical examiners resumes, these non-emergency medical appointments may be subject to large backlogs and not considered priority. A4A reiterated the FAA's determination from SFAR 118 that "pilots may operate beyond the validity period of their medical certificate for a limited time without creating a risk to aviation safety that is unacceptable under the extraordinary circumstances surrounding the COVID-19 outbreak."

In addition, on May 19, 2020, the President issued Executive Order 13924, Regulatory Relief to Support Economic Recovery, setting forth "the policy of the United States to combat the economic consequences of COVID-19 with the same vigor and resourcefulness with which the fight against COVID-19 itself has been waged." Among other things, the Executive Order directed executive branch agencies to "address this economic emergency by rescinding, modifying, waiving, or providing exemptions from regulations and other requirements that may inhibit economic recovery consistent with applicable law and with protection of the public health and safety" This final rule is consistent with this Executive Order.

III. Discussion of Final Rule

Without the expanded relief provided in this SFAR, certain persons are at risk of ceasing operations due to their inability to satisfy training and qualification requirements due to disruptions caused by the COVID-19 public health emergency. Airmen continue to have trouble complying with certain training, recency, checking, testing, duration, and renewal requirements even as stay-at-home advisories are lifted. Even as the Nation transitions to various phases of reopening throughout the country, authorities continue to promote social distancing and limiting exposure to slow the spread of the virus. To comply with many of the FAA's training, recency, checking, testing, duration, and renewal requirements, an airman is required to be in close proximity to another individual, often in a small, confined space such as the flight deck of an aircraft or inside a simulator. In such an environment, there is an increased risk of transmission of the virus.

Although there are signs of increased aviation activity, many of the challenges that existed when SFAR 118 was first

issued remain today. As those airmen that exercised the relief in the SFAR begin to reschedule training and qualification activities, further strain is placed on the training ecosystem for those airmen who are due for events in the upcoming months. In addition, the FAA workforce and its designees have not fully returned to normal activity. As a result, airman qualifications will lapse because persons cannot access training or testing facilities or schedule events in a timely fashion, or because FAA inspectors or designees are unavailable to conduct required tests, checks, or observations. To enable the continuity of aviation operations that are critical to the Nation, the FAA finds it necessary to provide short-term relief from certain training, qualification, duration, and renewal requirements to a new cohort of airmen.

Because this SFAR addresses multiple regulations from several parts of the Federal Aviation Regulations, the FAA has provided the necessary background information in the relevant sections of the Discussion of the Final Rule. The FAA emphasizes that, apart from the limited relief granted in this SFAR, individuals must continue to comply with all applicable FAA regulations.⁵

Each of the following sections explains the relief being granted and the airmen or air agencies eligible for the relief.⁶ The mitigations the FAA found necessary to ensure aviation safety remain unchanged from SFAR 118; therefore, they are not fully explained in the preamble of this amendment.

While the FAA is expanding the relief in SFAR 118 to a new group of airmen, it has not extended the period of relief

⁵ The FAA notes, in particular, that § 61.51(a) requires an individual to log training and aeronautical experience used to meet the requirements for a certificate, rating, or flight review and aeronautical experience required for meeting the recent flight experience requirements of part 61. Likewise, § 61.51(i) requires a person to present their pilot certificate, medical certificate, logbook, or any other record required by part 61 for inspection upon a reasonable request by (i) the Administrator; (ii) an authorized representative from the National Transportation Safety Board; or (iii) any Federal, State, or local law enforcement officer.

⁶ As explained further in Section IV.F of this SFAR (International Compatibility), certain relief provided in this SFAR does not conform with the International Civil Aviation Organization (ICAO) Standards and Recommended Practices (SARPs). Apart from this SFAR's application within the United States, certificate holders or operators may dispatch or release flights and pilots and other crewmembers may operate outside of the United States under this SFAR, unless otherwise prohibited by a foreign country. For international operations where pilots and other crewmembers will exercise the relief identified in this SFAR, anyone exercising this relief must have access to the SFAR when outside the United States and present a copy of this SFAR for inspection upon request by a foreign civil aviation authority.

³ The letter was from the Aircraft Owners and Pilots Association (AOPA), Air Medical Operators Association (AMOA), Experimental Aircraft Association (EAA), Helicopter Association International (HAI), National Agricultural Aviation Association, National Air Transportation Association (NATA), and National Business Aviation Association (NBAA).

⁴ SFAR 118 provided disproportionate relief for medical certificates that expired in April and May 2020 by extending them all until June 30, 2020.

provided to the original group of airmen except in one instance related to medical certification that is explained later in this preamble. The FAA maintains that limited extensions, not to exceed 3 calendar months (grace months), for training, checking, and currency requirements are acceptable in these extraordinary circumstances. Further extending the grace period provided to the original group of airmen covered by SFAR 118, however, presents an added risk to the system that the FAA does not broadly support. The grace months provided by the SFAR were to offer flexibility in scheduling the necessary events given the disruption caused by the COVID-19 public health emergency. Certificate holders should seek to schedule those events as soon as it is practical and safe to do so given individual circumstances.

A. Relief From Certain Training, Recency, Testing, and Checking Requirements

As noted in the letters from industry, general aviation operators and crewmembers can be a key part of the U.S. infrastructure. The support that general aviation provides is particularly critical as the Nation begins to recover from the public health emergency. Because some phased recovery measures continue to recommend that people stay at home or limit exposure through social distancing, some airmen will continue to have difficulty completing certain regulatory requirements in the short-term. In addition, as aviation activity begins to resume, the FAA anticipates that the demand for training, checking, and testing will exceed the availability of qualified instructors, check airmen, and examiners in many locations. The relief in this final rule will provide additional time and flexibility for airmen to schedule and complete those regulatory activities. The FAA encourages airmen not to delay scheduling until the last possible moment to ensure compliance by the end of the grace periods. As a result, the FAA finds temporary relief from some requirements is still necessary to maintain critical operations, increase flexibility in scheduling, and reduce burdens on airmen.

Relief granted in this section to certain eligible pilots and crewmembers applies only to persons conducting specific operations for which the FAA has determined relief is appropriate. The overarching eligibility for relief in Section A remains unchanged from the original issuance of SFAR 118; however, it is reiterated here for clarity. Except for medical certification, no individuals

who obtained relief under the original SFAR will receive an extension of that relief. Specific eligibility changes for individual sections will be discussed in those sections.

The relief applies to any operation that requires the pilot to hold at least a commercial pilot certificate. This provision will support the continuity of essential commercial operations, which include aerial observation of critical infrastructure, aerial applications (*e.g.*, crops), and private carriage of medical supplies and equipment, which are conducted under part 91, subpart K, and parts 125, 133, and 137.⁷

In addition, this relief applies to some operations conducted by pilots exercising private pilot privileges, provided the pilot has at least 500 hours of total time as a pilot of which 400 hours is as PIC and 50 of the PIC hours were accrued in the last 12 calendar months. The kinds of operations permitted are those that are:

- Incidental to business or employment,
- in support of family medical needs or to transport essential goods for personal use,
- necessary to fly an aircraft to a location in order to meet a requirement of this chapter, or
- a flight to transport essential goods and/or medical supplies to support public health needs.

This SFAR also extends to pilots conducting charitable medical flights for a volunteer pilot organization pursuant to an exemption issued under part 11, provided the pilots continue to comply with the conditions and limitations of the exemption. For flights conducted by private pilots under this relief, no one may be carried on the aircraft unless that person is essential to the purpose of the flight, such as when transporting doctors for the purpose of providing medical care. This relief does not permit private pilots to conduct these operations for compensation or hire unless permitted under the exceptions in § 61.113(b), (d), (e), or (h) or by exemption.⁸

⁷ In accordance with § 137.19, a private operator pilot that holds a private pilot certificate is also eligible for relief.

⁸ The FAA has consistently construed compensation under § 61.113(a) broadly. Compensation does not require a profit, profit motive, or the actual payment of funds. Rather, compensation is the receipt of anything of value, including the reimbursement of expenses. For additional discussion, the FAA has issued legal interpretations with respect to what constitutes compensation. Furthermore, nothing in this SFAR relieves a person from the requirement to hold a part 119 certificate if applicable FAA regulations require a part 119 certificate. See generally FAA Advisory Circular 120-12A (Apr. 24, 1986) and FAA Advisory Circular 61-142 (Feb. 25, 2020).

This relief also extends to flight attendant crewmembers, check pilots, and flight instructors under part 91, subpart K, and part 125. Finally, this relief applies to operations conducted under part 107 of this chapter by a person who holds a remote pilot certificate issued under part 107. Pilots exercising commercial pilot privileges have at least 190 hours of flight time as a pilot and have been tested to a higher standard than private pilots. The eligibility requirements for private pilots are consistent with conditions and limitations imposed on private pilots conducting charitable flights under a part 11 exemption.

This amendment to SFAR 118 addresses crewmember qualifications that may lapse in the next few months, provided the crewmember is eligible for the relief and satisfies the safety mitigations before exercising the privileges. The eligibility requirements and mitigations are discussed more fully in each subsection.

1. Part 61

Part 61 prescribes the requirements for pilot, flight instructor, and ground instructor certification, which include training, recency, testing, and checking requirements. The FAA is providing relief for second-in-command (SIC) qualifications, pilot flight reviews, specific recency of experience requirements, and the PIC proficiency check for pilots that operate aircraft that require more than one pilot flight crewmember or are turbojet-powered. The specific relief is described in paragraphs A.1.a. through A.1.d.

a. Second-in-Command Qualifications (§ 61.55)

Section 61.55(b) states that no person may serve as SIC of an aircraft certificated for more than one required pilot flight crewmember or in operations requiring an SIC unless that person has, within the previous 12 calendar months, become familiar with certain information specific to the type of aircraft and performed and logged pilot time in the type of aircraft or in a flight simulator that represents the type of aircraft.⁹ Although paragraph (c)

⁹ Section 61.55(b)(1)(i) specifies SICs must become familiar with operational procedures applicable to the powerplant, equipment, and systems; performance specifications and limitations; normal, abnormal, and emergency operating procedures; flight manual; and placards and markings. As prescribed in paragraph (b)(2), the SIC must also log pilot time and perform at least three takeoffs and three landings to a full stop as the sole manipulator of the flight controls; engine-out procedures and maneuvering with an engine out while executing the duties of pilot in command; and receive crew resource management training.

provides SICs a grace month¹⁰ for accomplishing this recency requirement, the effects of the COVID-19 public health emergency continues to create challenges for accomplishing this requirement even within that additional timeframe.

As a result, the FAA finds, under the extraordinary circumstances of the COVID-19 public health emergency, that allowing eligible SICs two additional grace months for completing the requirements of § 61.55(b) would not present additional risk to aviation safety that cannot be mitigated, as explained in the next paragraph. The additional grace months are available to pilots whose base month falls in March through September 2020. The “base month” is the month in which training is due. Under this SFAR, pilots will have a total of three grace months after the base month to accomplish the requirements of § 61.55(b).¹¹ If these requirements are completed during the grace period, they will be considered to have been completed during the base month. To attain the two additional grace months, eligible pilots must complete the requirements prescribed in SFAR 118 prior to serving as an SIC.¹²

The FAA notes that, for pilots whose base month is March 2020, the three-month grace period is available through June 30, 2020, and these pilots must complete the requirements in § 61.55 before acting as SIC after June 30, 2020.

b. Flight Review (§ 61.56)

Section 61.56(c) states that no person may act as PIC of an aircraft, unless since the beginning of the 24th calendar month before the month in which that person acts as PIC, that person has accomplished a flight review in an aircraft for which that person is rated and the person’s logbook has been endorsed for that review by an authorized instructor certifying the review was satisfactorily completed.¹³

The FAA finds, under the extraordinary circumstances of the COVID-19 public health emergency, that extending the 24-calendar month requirement of § 61.56(c) by up to three calendar months will not adversely affect safety, provided the extension applies to active pilots and certain risk mitigations are met. The three-calendar

month extension applies to pilots who were current to act as PIC of an aircraft in March 2020 and whose flight review was due in March 2020 through September 2020. Eligible pilots must complete the requirements prescribed in SFAR 118 prior to serving as a PIC.¹⁴

The FAA notes that, for pilots whose flight review was due in March 2020, the three-month grace period is available through June 30, 2020, and these pilots must complete the requirements in § 61.56 before acting as PIC after June 30, 2020.

c. Recent Flight Experience: Pilot in Command (§ 61.57)

Section 61.57 contains the recent flight experience requirements to serve as a PIC in an aircraft under various conditions. After reviewing the recent flight experience requirements of this section, the FAA has determined that only relief for instrument recency is warranted.

Section 61.57(c) specifies the requirements to serve as a PIC under IFR or weather conditions less than the minimums prescribed for visual flight rules (VFR). To be current under § 61.57(c),¹⁵ a pilot must have performed and logged, within the six calendar months preceding the month of the flight, six instrument approaches, holding procedures and tasks, and intercepting and tracking courses using navigational electronic systems.

If a pilot is unable to establish instrument recency in accordance with § 61.57(c), paragraph (d) prescribes how a pilot may reestablish instrument recency. If a pilot does not have the required approaches, holding, and intercepting and tracking courses in the preceding six calendar months, the pilot has an additional six calendar months to obtain the required experience by flying with a view-limiting device and a safety pilot¹⁶ or using a training device. During this period, the pilot may not serve as the PIC under IFR or weather conditions less than the minimums prescribed for VFR. If the pilot fails to meet the instrument experience requirements for more than six calendar months, the pilot must complete an instrument proficiency check administered by an authorized

instructor, company check pilot, designated pilot examiner, or person approved by the Administrator.¹⁷

The FAA finds, under the extraordinary circumstances of the COVID-19 outbreak, that relief for instrument recency is appropriate under certain conditions. The FAA is extending the six-calendar month requirement of § 61.57(c)(1) by an additional three calendar months. This will enable a pilot to continue exercising instrument privileges, provided the pilot has performed the required tasks within the nine calendar months preceding the month of the flight, instead of the preceding six calendar months.

To be eligible for the relief, a pilot will need to have some recent experience in instrument flight. More specifically, the FAA is requiring that the pilot have logged, in the preceding six calendar months, three instrument approaches in actual weather conditions, or under simulated conditions using a view-limiting device. Eligible pilots may exercise the relief in this SFAR through September 30, 2020. After that date, a pilot must be current in accordance with § 61.57(c). If the pilot does not meet the instrument experience requirements before September 30, 2020, the pilot retains the ability to reestablish recency in accordance with § 61.57(d). However, the pilot will no longer have six months to reestablish instrument recency. Instead, the number of months available for a pilot to attain the instrument experience prior to requiring completion of the instrument proficiency check will depend on when the person last established instrument recency in accordance with § 61.57(c).¹⁸

¹⁷ Section 61.57(d)(3) contains the list of persons who may administer an instrument proficiency check.

¹⁸ For example, if the pilot performed and logged the tasks required by § 61.57(c)(1) in December 2019, that pilot may continue exercising instrument privileges under this SFAR after June 2020, provided the pilot meets the qualification requirements. This SFAR would allow that pilot to continue acting as PIC under IFR or in weather conditions less than the minimums prescribed for VFR until September 30, 2020. After September 30, 2020, that pilot would be required to comply with § 61.57(c). As previously mentioned, § 61.57(d) gives a pilot who has failed to meet the instrument experience requirements of paragraph (c) a grace period of six calendar months to reestablish instrument recency. A pilot who does not reestablish instrument recency during those additional six calendar months may reestablish instrument recency only by completing an instrument proficiency check. Therefore, if the pilot in this hypothetical fails to complete the tasks required by § 61.57(c)(1) by September 30, 2020, that pilot would have three calendar months (until December 31, 2020) available to attain the instrument experience prior to requiring completion of an instrument proficiency check.

¹⁰ The “grace month” is the month after the month in which training is due during which the pilot is still eligible to maintain recency.

¹¹ The three grace months consist of the grace month provided in § 61.55(c) and the two additional grace months provided by this SFAR.

¹² 85 FR 26330.

¹³ Section 61.56(a) requires the flight review to consist of a minimum of 1 hour of flight training and 1 hour of ground training.

¹⁴ 85 FR 263301.

¹⁵ Section 61.57(c)(1) contains the requirements for maintaining instrument experience in an airplane, powered-lift, helicopter, or airship. Section 61.57(c)(3) contains the requirements for maintaining instrument experience in a glider.

¹⁶ A safety pilot is a person who occupies a control seat in an aircraft and maintains a visual watch when the pilot manipulating the flight controls of the aircraft is using a view-limiting device to simulate flight by reference to instruments. 14 CFR 91.109(c).

d. Pilot-in-Command Proficiency Check: Operation of an Aircraft That Requires More Than One Pilot Flight Crewmember or Is Turbojet-Powered (§ 61.58)

Section 61.58 requires a PIC proficiency check for those pilots that fly an aircraft that requires more than one pilot or is turbojet-powered. Paragraph (a)(1) requires a pilot to complete a PIC proficiency check within the preceding twelve calendar months in an aircraft that is type certificated for more than one required pilot or is turbojet-powered. In addition, paragraph (a)(2) requires a pilot to accomplish, within the preceding 24 calendar months, a PIC proficiency check in the particular type of aircraft in which that person will serve as PIC that is type-certificated for more than one required pilot flight crewmember or is turbojet-powered.¹⁹ Paragraph (i) establishes a grace month for completing the PIC proficiency check. Specifically, it allows the check to be completed in the month prior to or the month after the month in which the check is due.

The FAA finds, under the extraordinary circumstances of the COVID-19 public health emergency, that allowing two additional grace months for completing the PIC proficiency checks required by § 61.58(a)(1) and (2) does not present a risk to aviation safety that cannot be mitigated, as explained in SFAR 118.²⁰ Eligible pilots are those pilots who are required to complete a proficiency check in accordance with § 61.58(a)(1) and whose base month falls within the time period of March 2020 through September 2020. In accordance with § 61.58(a)(2), pilots who have not completed a proficiency check in the aircraft they intend to fly within the preceding 24 calendar months and whose base month falls between March 2020 and September 2020, are also eligible for the relief in this SFAR.²¹ Pilots will have a total of three grace months after the base month to accomplish the PIC proficiency check required by § 61.58(a)(1) and (2).²² A

PIC proficiency check completed during the grace period will be considered to have been completed in the base month.

The FAA notes that, for pilots whose proficiency check was due in March 2020, the three-month grace period is available through June 30, 2020, and these pilots must complete the requirements in § 61.58 before acting as PIC after June 30, 2020.

2. Part 91, Subpart K Flight Crewmember Requirements (§§ 91.1065, 91.1067, 91.1069, 91.1071, 91.1073, 91.1089, 91.1091, 91.1093, 91.1095, 91.1099, 91.1107)

Part 91, subpart K, prescribes the additional rules that apply to private, general aviation fractional ownership programs. There are currently nine fractional ownership programs operating under part 91, subpart K. They range in size from managers with two aircraft to managers with over 500 airplanes and helicopters.

The crewmember testing and checking requirements are established in §§ 91.1065, 91.1067, 91.1069, and 91.1071. Recurrent training requirements for crewmembers are specified in §§ 91.1073, 91.1099, and 91.1107. These requirements cover the following activities and timelines for completion:

- Section 91.1065—pilot knowledge testing and competency checking requirements (completed within the previous twelve months before the pilot serves as a required crewmember);
- Section 91.1067—flight attendant crewmember testing requirements (completed within the previous twelve months before serving as a flight attendant crewmember);
- Section 91.1069(a) and (b)—instrument proficiency checking requirements for PICs (completed within the previous six months) and SICs (completed in previous twelve months);
- Section 91.1099—initial or recurrent training (completed within the previous twelve months before serving as a crewmember);
- Section 91.1107—crewmember recurrent training (completed within the previous twelve months before serving as a crewmember);
- Section 91.1069(c)—instrument approach procedure recency (demonstrated that type of approach within previous six months);
- Section 91.1071(a)—creates a grace month that allows a crewmember test or flight check required by subpart K to be completed in the month before or after the month it is required; and
- Section 91.1073(b)—creates a grace month that allows crewmember

recurrent training required by subpart K to be completed in the month before or after the month it is required.

Subpart K of part 91 also contains instructor and check pilot qualifications in §§ 91.1089 through 91.1095. Sections 91.1089 and 91.1091 require check pilots and flight instructors qualified in simulators to fly at least two flight segments as a required crewmember for the type, class, or category of aircraft involved within the previous twelve-month period or complete an approved line-observation program within the period prescribed by that program. Paragraph (g) in both sections provides a grace month stating that the flight segments or line observations are considered complete if completed in the month before or the month after in which they are due. Sections 91.1093 and 91.1095 require that a person who conducts checking or instruction have satisfactorily completed an observation check within the preceding 24 months. Paragraph (b) in both sections also provides a grace month for the checks to be completed.

The FAA finds, under the extraordinary circumstances of the COVID-19 public health emergency, that allowing a total of three grace months after the base month for completing the covered training, testing, and checking requirements for crewmembers, check pilots, and flight instructors whose base month is in March through September 2020—many of which already permit one grace month—does not present a risk to aviation safety that cannot be mitigated under the conditions of SFAR 118.²³ If a management specification holder seeks the relief provided in this amendment, the risk mitigation plan must include reference to crewmembers whose base month is July through September 2020, as appropriate. This may require an amendment to a previously submitted mitigation plan under the conditions of SFAR 118; however, persons whose base month was March through June 2020 receive no further relief under this portion of the final rule.

3. Mitsubishi MU-2B Series Special Training, Experience, and Operating Requirements (§§ 91.1703, 91.1705, 91.1715)

Subpart N of part 91 contains training, experience, and operating requirements specific to the Mitsubishi MU-2B series airplane. Except as specified in

¹⁹ In accordance with § 61.58(b), this section does not apply to persons conducting operations under subpart K of part 91, or part 121, 125, 133, 135, or 137. In accordance with § 61.57(c), the PIC proficiency check given in accordance with subpart K of part 91, parts 121, 125, or 135 may be used to satisfy the requirements of this section.

²⁰ 85 FR 26331-2

²¹ If a pilot's base month is September 2020, this SFAR extends the validity through December 30, 2020.

²² This three-month grace period includes the grace month that is already provided by § 61.58(i) and the two additional grace months provided by this SFAR.

²³ 85 FR 26332-3.

§ 91.1703(b),²⁴ a person may not manipulate the controls, act as PIC, or act as SIC of a MU–2B series airplane for the purpose of flight unless that person satisfies certain ground and flight training requirements,²⁵ including recurrent training requirements, in an FAA-approved MU–2B training program that meets the standards of subpart N of part 91. This requirement is contained in § 91.1705(a)(1).²⁶

In addition, § 91.1705(b)(1) states that, except as specified in § 91.1703(b), a person may not manipulate the controls, act as PIC, or act as SIC, of a MU–2B series airplane for the purpose of flight unless that person satisfactorily completes, if applicable, recurrent pilot training on the special emphasis items and all items listed in the Training Course Final Phase Check in accordance with an FAA-approved MU–2B training program that meets the standards of subpart N of part 91.²⁷

Section 91.1703(e) requires a person to complete recurrent training within the preceding twelve months without the option of a grace month.²⁸ Under § 91.1705(e), however, a person has one grace month to comply with the training requirements of § 91.1705(a) or (b). Therefore, § 91.1705(e) allows a person to accomplish the recurrent training one month after the month it is due.

Section 91.1715(c) stipulates that completion of a flight review to satisfy the requirements of § 61.56 is valid for operation of a Mitsubishi MU–2B series airplane only if that flight review is conducted in a Mitsubishi MU–2B series airplane, or an MU–2B simulator approved for landings with an approved course conducted under part 142.

Under the extraordinary circumstances of the COVID–19 public health emergency, the FAA supports relief for certain experienced pilots

flying MU–2B series airplanes. This relief is not applicable to pilots that are required to complete initial/transition or requalification training in an MU–2B series airplane,²⁹ because these pilots could not meet the qualification requirements.

Under this SFAR, a person may obtain two additional grace months to complete the recurrent training requirements.³⁰ To be eligible for this relief, pilots must be qualified under subpart N of part 91 and their base month for completing the recurrent training must fall in March through September 2020. If a pilot completes the recurrent training requirements within the grace period provided by this SFAR, the requirements will be considered to have been completed in the base month. In addition, to ensure there is no adverse impact to safety, the FAA has determined it is necessary to impose certain qualification requirements on pilots seeking to exercise this relief. The qualification requirements are intended to serve as risk mitigations and are described in SFAR 118.³¹

4. Aeronautical Knowledge Recency (§ 107.65)

Section 107.65 requires remote pilots certificated under part 107 to establish recency of knowledge every 24 calendar months. To meet the recency of knowledge requirement per § 107.65(a) or (b), remote pilots must pass an FAA knowledge test at a knowledge testing center. The initial and recurrent knowledge tests required by § 107.65(a) or (b) cover the comprehensive list of knowledge areas specified in § 107.73(a) or (b), respectively. Section 107.65(c) allows remote pilots who are also certificated under part 61 and have a current flight review in accordance with § 61.56 to complete online training to meet aeronautical knowledge recency. The initial or recurrent training course covers the condensed list of knowledge areas specified in § 107.74(a) or (b), respectively, because the part 61 pilot who has a current flight review has already demonstrated knowledge of many of the topic areas tested on the UAS knowledge test.³²

Under the extraordinary circumstances of the COVID–19 public health emergency, eligible remote pilots

who would normally establish recency of knowledge in accordance with § 107.65(a) or (b) may complete online training as an alternative if required to establish recency between April 2020 and September 2020. The remote pilot may complete the FAA-developed initial or recurrent online training courses³³ at www.faasafety.gov one time to establish knowledge recency for six calendar months.³⁴ As previously stated, the initial or recurrent online training course covers a condensed list of UAS-specific knowledge areas because it is intended for persons who hold part 61 pilot certificates and satisfy the flight review requirements of § 61.56. The FAA finds that, for a limited duration of time, allowing remote pilots to complete one of these online training courses is an adequate alternative to passing a knowledge test. However, because these courses do not include all the knowledge areas under § 107.73(a) or (b) that a remote pilot is required to be tested on every 24 calendar months, the remote pilot will need to establish knowledge recency in accordance with § 107.65 upon conclusion of the six calendar months. Remote pilots who qualify to establish recency of aeronautical knowledge per § 107.65(c) are not included in this relief. Pilots who use the relief from § 61.56 in this SFAR amendment may establish recency of aeronautical knowledge per § 107.65(c) and retain remote pilot privileges for 24 calendar months.

5. Part 125 Flight Crewmember Requirements (§§ 125.285, 125.287, 125.289, 125.291, 125.293)

Part 125 certificated operators conduct non-common carriage operations. The FAA issues a Letter of Deviation Authority (LODA) for various kinds of operations to include airplane

²⁴ Section 91.1703(b) states that a person who does not meet the requirements of subpart N of part 91 may manipulate the controls of a Mitsubishi MU–2B series airplane if a PIC who meets the requirements of subpart N of part 91 is occupying a pilot station, no passengers or cargo are carried on board the airplane, and the flight is being conducted for one of the reasons specified in § 91.1703(b)(1) through (3).

²⁵ The requirements for ground and flight training are on initial/transition, requalification, recurrent, and differences training. 14 CFR 91.1705(a)(1).

²⁶ Section 91.1705(a)(2) requires the person's logbook to have been endorsed in accordance with § 91.1705(f).

²⁷ Section 91.1705(b)(2) also requires the person's logbook to have been endorsed in accordance with § 91.1705(f).

²⁸ Successful completion of initial/transition training or requalification training within the preceding twelve months satisfies the requirement of recurrent training. A person must successfully complete initial/transition training or requalification training before being eligible to receive recurrent training. 14 CFR 91.1703(e).

²⁹ See § 91.1703(c) or (d).

³⁰ This means a person will have a total of three grace months after the due month, because § 91.1705(e) already provides one grace month. The "grace months" are months after the month in which training is due, during which the pilot is still eligible to meet the recurrent training requirements.

³¹ 85 FR 26333.

³² Final Rule, *Operation and Certification of Small Unmanned Aircraft Systems*, 81 FR 42063, 42164 (Jun. 28 (2016)).

³³ ALC–451 (Part 107 Small Unmanned Aircraft Systems (small UAS) Initial); ALC–515 (Part 107 Small Unmanned Aircraft Systems (small UAS) Recurrent).

³⁴ On February 13, 2019, the FAA published an NPRM that, if adopted, would update the regulations that govern part 107 operations. In the NPRM, the FAA proposed to amend § 107.65(b) to allow a remote pilot to meet the recency requirements by completing recurrent training (rather than a recurrent knowledge test) covering the areas of knowledge specified in § 107.73. The FAA is therefore actively engaged in rulemaking that, if adopted, would provide the option for taking an online recurrent training course in lieu of a UAS knowledge test to all part 107 certificate holders. The proposed recurrent training course would cover the comprehensive list of knowledge areas set forth in § 107.73, rather than the condensed list of knowledge areas in § 107.74, which are intended for part 61 certificate holders who satisfy the flight review requirements specified in § 61.56. NPRM, *Operation of Small Unmanned Aircraft Systems Over People*, 84 FR 3856 (Feb. 13, 2019).

ferry, sales demonstrations, or training.³⁵ These LODA-holders conduct operations under part 91 and may hold an operating certificate and have operations specifications (OpSpecs).³⁶ The FAA also issues a LODA to an operator that conducts only non-commercial operations (*i.e.*, private use only)—specifically an A125 LODA. Holders of an A125 LODA do not hold an operating certificate or have OpSpecs. Instead, they are issued a letter of authorization (LOA) because the flightcrew members operating under an A125 LODA must comply with the recency, recurrent testing, and proficiency checking requirements of part 125.

Section 125.287 requires a pilot of a part 125 operation to have passed a written or oral test given by the Administrator or a check airman every 12 calendar months and pass a competency check in the type of airplane flown in part 125 operations every 12 calendar months.³⁷ Section 125.289 requires a flight attendant to complete recurrent testing every 12 calendar months. Section 125.293(a) provides for a grace month for crewmembers to complete testing or checking.³⁸ Section 125.291(a) requires that since the beginning of the sixth calendar month before service, the PIC of an airplane in a part 125 operation under IFR must have passed an instrument proficiency check and the Administrator or an authorized check airman has so certified in a letter of competency.³⁹ Finally, § 125.285(a) requires that pilot flight crewmembers complete three takeoffs and landings within the preceding 90 days in the type airplane in which that person is to serve.

The FAA finds, under the extraordinary circumstances of the COVID-19 public health emergency, that allowing two additional grace months for completing the recurrent testing, checking, and training

requirements does not present a risk to aviation safety that cannot be mitigated. In addition, the FAA is granting an additional sixty days for completing the three required takeoffs and landings. The requirements of this SFAR ensure that certificate holders and A125 LODA holders demonstrate a plan to mitigate any potential risk introduced by extending flight crewmember qualifications.⁴⁰ The relief applies to requirements for currently qualified flight crewmembers only, whose base month is March through September 2020. It does not apply to requirements for the training and qualification of new personnel. To utilize the relief provided by this SFAR, the certificate holder or A125 LODA holder must provide an acceptable risk mitigation plan as described in SFAR 118.⁴¹ If a certificate holder or A125 LODA holder seeks the relief provided in this amendment, the mitigation plan must include reference to crewmembers whose base month is July through September 2020, as appropriate. This may require an amendment to a previously submitted mitigation plan under the conditions of SFAR 118; however, persons whose base month was March through June 2020 receive no further relief under this portion of the final rule.

6. Robinson R-22/R-44 Special Training and Experience Requirements (SFAR 73)

SFAR 73 established special training and experience requirements for pilots operating the Robinson model R-22 or R-44 helicopters to maintain safe operation of these helicopters.

To act as PIC of a Robinson R-22 or R-44 helicopter, SFAR 73 requires the person to complete the flight review required under § 61.56 in an R-22 or R-44 helicopter, as appropriate to the PIC privileges sought, if the person has at least 200 flight hours in helicopters of which at least 50 flight hours are in the applicable Robinson model helicopter for which the person has PIC privileges.⁴² Otherwise, it requires the person to comply with the endorsement requirements of SFAR 73.⁴³

Under the extraordinary circumstances of the COVID-19 public health emergency, the FAA has determined that the PIC of an R-22 or R-44 is compliant with SFAR 73 if the

person meets the recency requirements of § 61.56 established in this SFAR in an R-22 or R-44, or both, as appropriate. This relief is limited to Robinson pilots that have at least 200 hours in helicopters of which at least 50 hours are in the applicable Robinson model helicopter for which the person has PIC privileges. Low-time Robinson pilots that are required to complete a flight review every twelve calendar months in accordance with SFAR 73 must continue to comply with that SFAR.

For the relief in this SFAR, the flight review must include SFAR 73 awareness training subjects in paragraph 2(a)(3) and the flight training subjects in paragraph 2(b). R-22 or R-44 pilots whose flight review is due in March through September 2020 may extend an additional three calendar months, provided the pilots meet the requirements prescribed in SFAR 118.⁴⁴

B. Relief From Certain Duration and Renewal Requirements

Maintaining the continuity of operations through the relief in section A of this document is important to ensure the stability of essential functions of the U.S. transportation system. The FAA also finds that it is appropriate to provide relief for additional persons for certain duration and renewal requirements because the COVID-19 public health emergency has continued to make compliance difficult. Without extending this short-term relief, some certificate holders will not have the flexibility necessary to schedule testing events or medical exams due to the backlog of required events and the availability of FAA examiners and designees.

The relief discussed more fully in the following sections responds to continued disruptions that have prevented certificate holders from seeking timely renewals of certificates or from completing certain testing activity before expiration dates have passed. Because disruptions have continued as activities begin to resume, the FAA is providing the relief for periods of time deemed necessary to alleviate the burden. The FAA has determined, under the extraordinary circumstances of the COVID-19 public health emergency, that this relief will not adversely affect safety because it is narrowly focused on a small segment of the regulated community, it will be in effect for a short duration, and the regulations will provide safeguards to ensure an appropriate level of safety is maintained.

³⁵ These are A510, A511, or A512 LODA holders, respectively.

³⁶ Pilots of these LODA-holders comply with the recency, training, and checking requirements of part 61.

³⁷ This section also requires the certificate holder to use a pilot who has passed the written or oral test and competency check within the preceding 12 calendar months.

³⁸ If a crewmember who is required to take a test or check under part 125, if he or she completes the test or check in the calendar month before or after the calendar month in which it is required, that crewmember is considered to have completed the test or check in the calendar month in which it is required.

³⁹ The certificate holder is also required to use a PIC in an airplane of a part 125 IFR operation who has completed the instrument proficiency check within the preceding six calendar months.

⁴⁰ Pilots of other LODA-holders would comply with the applicable relief to part 61 training, recency, testing, and checking requirements.

⁴¹ 85 FR 26334.

⁴² An R-44 PIC may credit up to 25 hours of R-22 PIC time towards the 50 hours of PIC time required in the R-44.

⁴³ See 14 CFR part 61, SFAR 73, section 2, paragraph (b)(1) or (2) Aeronautical Experience.

⁴⁴ 85 FR 26335.

1. Part 61

The FAA is granting temporary regulatory relief from the validity dates for medical certificates. This relief is further described in B.1.a and B.2.a. The FAA also recognizes that the inability to complete a practical test at this time may still be outside the applicant's control due to the limited number of practical tests currently being conducted. As a result, the FAA is providing relief to extend the knowledge test validity period as described in B.1.b.

a. Medical Certificates: Requirement and Duration (§§ 61.2, 61.23)

Section 61.2(a)(5) states that no person may exercise privileges of a medical certificate issued under 14 CFR part 67 if the medical certificate is expired according to the duration standards set forth in § 61.23(d). Section 61.23(d) states that the duration of a medical certificate depends on the age of the person on the date of the medical examination, the duty position in which the person is serving, the type of operation the person is conducting, and the class of certificate.

On April 1, 2020, the FAA published an Enforcement Policy for Expired Airman Medical Certificates in the **Federal Register** (85 FR 18110) notifying the public that the Agency would not take legal enforcement action against any person serving as a required pilot flight crewmember or flight engineer based on noncompliance with medical certificate duration standards. The policy was limited to specified certificate expiration dates and to operations within U.S. airspace. The FAA also granted two exemptions relating to the duration of medical certificates, No. 18516 (Regulatory Docket No. FAA–2020–0318) and No. 18515 (Regulatory Docket No. FAA–2020–0317) limited to operations outside U.S. airspace conducted by certain 14 CFR part 119 certificate holders. The FAA incorporated the relief granted in those exemptions into SFAR 118 and expanded it to all pilots to encompass all operations subject to §§ 61.2, 61.23, and 63.3.⁴⁵

Under the extraordinary circumstances of the COVID–19 public health emergency, the FAA has determined that even as some routine activity is resuming and aviation medical examiners are beginning to see patients for aviation medical examinations, further relief is necessary

for a short period of time. In SFAR 118, the FAA extended to June 30, 2020, the validity period of all medical certificates due to expire in March through May 2020. This relief was helpful to many pilots; however, the relief granted some pilots a three-month extension, some pilots a two-month extension, and some pilots a one-month extension. This approach has resulted in four groups of airmen with medical certificates set to expire on the same day. To provide relief to those airmen who continue to be affected by restrictions and recommendations implementing phased reopening, and allow for flexibility in scheduling the medical exams, the FAA is amending the relief in SFAR 118. The FAA has determined that pilots may operate with a medical certificate that has been extended no more than 3 calendar months for a limited time without creating a risk to aviation safety that is unacceptable under the extraordinary circumstances surrounding the COVID–19 public health emergency. For the reasons cited, this final rule revises SFAR 118 to extend the validity period of medical certificates that expire in April through September 2020 to 3 calendar months beyond the original expiration.⁴⁶ Accordingly, those pilots who obtained only a one- or two-month extension under the original SFAR will be granted additional relief not to exceed an extension of three months total. Those pilots who hold medical certificates that would have expired in March 2020 obtain no additional relief under this SFAR, and they must obtain a new medical certificate to continue operating after June 30, 2020. Pilots who hold medical certificates that expire in July, August, and September will have a full three-month extension.

The FAA notes that the provisions of this SFAR do not extend to the requirements of § 61.53 regarding prohibition on operations during medical deficiency. These prohibitions remain critical for all pilots to observe, especially given the policy of emergency accommodation announced here and the health threat of COVID–19. Accordingly, the FAA emphasizes that under § 61.53, no person who holds a medical certificate issued under 14 CFR part 67 may act as a required pilot flight crewmember while that person:

(1) Knows or has reason to know of any medical condition that would make the person unable to meet the requirements for

the medical certificate necessary for the pilot operation; or

(2) Is taking medication or receiving other treatment for a medical condition that results in the person being unable to meet the requirements for the medical certificate necessary for the pilot operation.

b. Prerequisites for Practical Tests (§ 61.39)

Section 61.39 establishes the eligibility requirements for an applicant seeking to take a practical test for a certificate or rating issued under part 61. Among these requirements, an applicant must have passed the required FAA knowledge test within a specified period. Except for the multiengine airplane airline transport pilot (ATP) certificate, FAA knowledge tests are valid for 24 calendar months.⁴⁷ The multiengine airplane ATP knowledge test is valid for 60 calendar months.⁴⁸

Because of the COVID–19 public health emergency, an applicant may not have been able to complete a practical test, as planned, prior to the expiration of his or her knowledge test. Applicants continue to have trouble scheduling practical tests. A majority of FAA examiners and designees have not yet resumed practical testing activities. Given the extended period where there were no practical tests being taken, there is a backlog of testing that needs to occur.

If an applicant's knowledge test expires before he or she can complete the practical test, that applicant is required to pass another knowledge test prior to completing the practical test. It costs a person \$96–\$160 per test,⁴⁹ depending upon the testing location, to take an FAA knowledge test. Therefore, requiring a person whose knowledge test result expired during the COVID–19 public health emergency to take another knowledge test would result in an additional economic burden on the applicant.

The FAA has determined, under the extraordinary circumstances of the COVID–19 public health emergency, that it is necessary to amend the regulatory relief originally provided in SFAR 118 to add the specific class of

⁴⁷ Section 61.39(a)(1)(i) requires the applicant to have passed the required knowledge test within the 24-calendar month period preceding the month the applicant completes the practical test, if a knowledge test is required.

⁴⁸ Section 61.39(a)(1)(ii) requires the applicant to pass the required knowledge test within the sixty-calendar month period preceding the month the applicant completes the practical test for those applicants who complete the ATP certification training program in § 61.156 and pass the knowledge test for an ATP certificate with a multiengine class rating after July 31, 2014.

⁴⁹ FAA Regulatory Support Division provided knowledge test cost information on April 14, 2020.

⁴⁵ Because the medical certification requirement for flight engineers falls under part 63, rather than part 61, the SFAR relief pertaining to § 63.3 is addressed in Section B.2 of this preamble.

⁴⁶ A medical certificate that was to expire in May 2020 has been extended by three calendar months and is now valid until August 31, 2020. Likewise, a medical certificate that expires in September 2020 is now valid until December 31, 2020.

individuals who have knowledge tests expiring between July 2020 and September 2020. To ensure these individuals are not penalized by having to take another knowledge test, the FAA is extending the validity of knowledge tests by a duration of three calendar months. Therefore, this SFAR will allow an individual who has a knowledge test expiring between March 2020 and September 2020 to present the expired knowledge test to show eligibility under § 61.39(a)(1) to take a practical test for a certificate or rating issued under part 61 for an additional three calendar months.⁵⁰

In addition to passing a knowledge test, the eligibility requirements for taking a practical test require an applicant to satisfactorily accomplish the required training and obtain the aeronautical experience required for the certificate or rating sought.⁵¹ The regulations also require the applicant to have received flight training from an authorized instructor in preparation for the practical test within the two months preceding the month of the test.⁵² The authorized instructor must endorse the applicant's logbook or training record certifying that the applicant has received and logged this training and is prepared for the required practical test.⁵³ While this amended SFAR will allow certain individuals to use an expired knowledge test, the other requirements in part 61 will ensure the individual is prepared for the practical test, and the evaluator administering the practical test will have the opportunity to determine whether the person is qualified to hold the certificate.⁵⁴ Under the extraordinary circumstances of the COVID-19 public health emergency, and because the relief applies to a specific group of individuals and is limited in duration, the FAA has determined that these regulatory requirements will provide sufficient assurance that there will be no adverse impact to safety.

2. Part 63

As previously described, the FAA is amending the temporary relief from the

expiration of medical certificates to provide additional time for airmen to accomplish medical examinations and obtain new medical certificates. Similarly, medical relief for flight engineers is necessary as described in B.2.a. Extending knowledge test passing results for flight engineers is also necessary and explained in B.2.b.

a. Certificates and Ratings Required (§ 63.3)

Section 63.3(b) states that a person may act as a flight engineer of an aircraft only if that person holds a current second-class medical certificate issued to that person under part 67. For the reason previously stated in section B.1.a and subject to the same conditions and limitations, the FAA has determined that flight engineers may operate with a medical certificate that has had its validity period extended for a period not to exceed three calendar months without creating a risk to aviation safety that is unacceptable under the extraordinary circumstances surrounding the COVID-19 public health emergency. Accordingly, the FAA is amending SFAR 118 and extending the validity period for medical certificates that expire in March 2020 through September 2020 by three calendar months.

Consistent with the relief to pilots explained in section B.1.a, flight engineers who obtained only a one- or two-month extension under the original SFAR will be granted additional relief not to exceed an extension of three months total. Those flight engineers who hold medical certificates that would have expired in March 2020 obtain no additional relief under this SFAR amendment, and they must obtain a new medical certificate to continue operating after June 30, 2020. Flight engineers who hold medical certificates that expire in July, August, and September will have a full three-month extension.

The FAA notes that the provisions of this SFAR do not extend to the requirements of § 63.19 regarding prohibition on operations during physical deficiency. These prohibitions remain critical for all flight engineers to observe, especially given the policy of emergency accommodation announced here and the health threat of COVID-19. Accordingly, the FAA emphasizes that under § 63.19, no person who holds a medical certificate issued under 14 CFR part 67 may serve as a flight engineer during a period of known physical deficiency, or increase in physical deficiency, that would make him or her unable to meet the physical

requirements for his or her current medical certificate.

b. Flight Engineer Knowledge Requirements (§ 63.35)

Section 63.35 establishes the knowledge requirements for a person seeking a flight engineer certificate. Paragraph (d) states the applicant for a flight engineer certificate or rating must have passed the written tests required by paragraphs (a) and (b) since the beginning of the 24th calendar month before the month in which the flight is taken.⁵⁵

For the reasons discussed in section B.1.b of this preamble and subject to the same condition and limitations, the FAA is also amending the relief in SFAR 118 to expand it to include persons seeking a flight engineer certificate under part 63 who have written tests expiring between July 2020 and September 2020. Consistent with the relief provided to pilot applicants under part 61, the FAA is extending the validity of written tests under part 63 for a duration of three calendar months. The FAA finds, under the extraordinary circumstances of the COVID-19 public health emergency, that this relief will not adversely affect safety because it is narrowly focused on a small segment of the regulated community, it will be in effect for a short period of time, and the regulations will provide adequate safeguards to ensure an appropriate level of safety is maintained.

3. Part 65

As described for pilots and flight engineers, extending knowledge test and written test results for aircraft dispatchers and mechanics, respectively, is also warranted and further described in B.3.a. and B.3.b. The FAA finds, under the extraordinary circumstances of the COVID-19 public health emergency, that the relief provided to part 65 airmen will not adversely affect safety because it is narrowly focused on a small segment of the regulated community, it will be in effect for a short period of time, and the existing regulations will provide adequate safeguards to ensure an appropriate level of safety is maintained.

a. Dispatcher Knowledge Requirements (§ 65.55)

Section 65.55 establishes the knowledge requirements for a person

⁵⁰ Except for a multiengine ATP knowledge test, a knowledge test taken for a pilot certificate or rating in May 2018 would expire in May 2020. With the relief in this SFAR, the passing knowledge test results are valid until August 2020.

⁵¹ 14 CFR 61.39(a)(3).

⁵² 14 CFR 61.39(a)(6)(i), 61.99, 61.109, 61.129, 61.313.

⁵³ 14 CFR 61.39(a)(6).

⁵⁴ The regulations require the applicant to pass the practical test on the areas of operation required for the certificate or rating sought. 14 CFR 61.96(b)(7), 61.103(h), 61.123(g), 61.153(h), 61.165(e)(4) and (f)(5), 61.183(h), 61.307(b), 61.405(b)(2).

⁵⁵ Exceptions to the 24-calendar month limitation are prescribed in paragraphs (d)(1) for applicants employed as a flight crewmember or mechanic by an air carrier; or (d)(2) for applicants that participated in a military flight engineer or maintenance program.

seeking an aircraft dispatcher certificate. Paragraph (b) requires the applicant for an aircraft dispatcher certificate to present passing knowledge test results within the preceding 24 calendar months.

For the reasons discussed in section B.1.b and subject to the same conditions and limitations, the FAA, under the extraordinary circumstances of the COVID-19 public health emergency, is also amending the relief in SFAR 118 to extend it to persons seeking an aircraft dispatcher certificate under part 65 who have knowledge tests expiring between July 2020 and September 2020. Therefore, consistent with the relief provided to pilot applicants under part 61 and flight engineer applicants under part 63, the FAA is extending the validity of knowledge tests under § 65.55 for a duration of three calendar months. Accordingly, an individual who has a knowledge test expiring between March 2020 and September 2020 may present the expired knowledge test to show eligibility under § 65.55 to take a practical test for an aircraft dispatcher certificate for a period of three calendar months.

b. Eligibility Requirements: General (§ 65.71)

Section 65.71 establishes the eligibility requirements for a mechanic certificate and associated ratings. Paragraph (a)(3) requires an applicant to have passed all the prescribed tests within a period of 24 months from the initiation of testing. Testing for a FAA mechanic certificate includes three tests, which are the written, oral, and practical.⁵⁶ Section 65.75 establishes the knowledge requirements, including the requirement to pass a written test. Section 65.79 contains the skill requirements, including the requirement to pass an oral and practical test. In addition, § 65.71(b) requires a certificated mechanic who applies for an additional rating to meet the experience requirements of § 65.77 and, within a period of 24 months, pass the written test required by § 65.75 and the oral and practical tests required by § 65.79 for the additional rating sought.

For the reasons discussed in section B.1.b of this preamble, the FAA, under the extraordinary circumstances of the COVID-19 public health emergency, is also amending SFAR 118 and extending the relief to persons seeking a mechanic certificate or rating issued under part 65 who have testing periods expiring between July 2020 and September 2020. Therefore, consistent with the relief

provided under parts 61 and 63, the FAA is extending the validity of the testing period under § 65.71 for a duration of three months. Accordingly, an individual who has a testing period expiring in March through September 2020 may show eligibility under § 65.71 to take a practical test for a mechanic certificate or rating provided the testing period does not exceed 27 months.⁵⁷

IV. Regulatory Notices and Analyses

Changes to Federal regulations must undergo several analyses. First, Executive Orders 12866 and 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. In addition, DOT rulemaking procedures in 49 CFR part 5 instruct DOT agencies to issue a regulation upon a reasoned determination that benefits exceed costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), as codified in 5 U.S.C. 603 *et seq.*, requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act of 1979 (Pub. L. 96-39), as codified in 19 U.S.C. chapter 13, prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Agreements Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), as codified in 2 U.S.C. chapter 25, requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation with base year of 1995). The FAA also analyzes this regulation under the Paperwork Reduction Act. This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

In conducting these analyses, the FAA has determined this rule is not a significant regulatory action, as defined in section 3(f) of Executive Order 12866 and under DOT rulemaking procedures. As notice and comment under 5 U.S.C. 553 are not required for this final rule, the regulatory flexibility analyses described in 5 U.S.C. 603 and 604

regarding impacts on small entities are not required. This rule will not create unnecessary obstacles to the foreign commerce of the United States. This rule will not impose an unfunded mandate on State, local, or tribal governments, or on the private sector, by exceeding the threshold identified previously. To take advantage of the relief from this SFAR, this rule will result in a one-time collection of information for affected operators and pilot schools to submit plans to mitigate safety risks and ensure proficiencies.

A. Regulatory Evaluation

i. Safety and Regulatory Relief Benefits

The provisions in this final rule amend the regulatory relief originally provided in SFAR 118. The amended relief applies to new persons who may have challenges complying with certain training, recent experience, testing, and checking requirements. Without the relief in this SFAR, beginning July 1, 2020, and with each month thereafter, a new group of pilots will become unavailable to perform critical operations due to an inability to comply with regulatory requirements. This relief allows affected operators to continue to use pilots and other crewmembers in support of essential operations during this extended period. In addition, this rule provides regulatory relief to persons unable to meet duration and renewal requirements due to the public health emergency.

The regulatory relief in this amendment will enable the continuity of aviation operations that are critical during the COVID-19 public health emergency and recovery, including operations that support essential services and flights that support response efforts. In addition, this rule contains regulatory relief for persons who are unable to satisfy certain requirements, to prevent those persons from enduring unnecessary economic burdens due to circumstances related to the public health emergency that are outside of their control. This rule also provides additional flexibility for scheduling training and qualification activities as the U.S. transitions from safer-at-home advisories to various phases of reopening.

In addition, this relief applies to some operations conducted by pilots exercising private pilot privileges, provided the pilot has at least 500 hours of total time as a pilot of which 400 hours is as PIC with 50 of the PIC hours accrued in the last twelve calendar months. As previously discussed, the kinds of operations permitted include, but are not limited to, flights to

⁵⁶ Under part 65, subpart D, the FAA may issue an airframe or powerplant rating. 14 CFR 65.73.

⁵⁷ If a testing period was to expire on April 30, 2020, this SFAR extends the testing period to July 31, 2020.

transport essential goods and/or medical supplies to support public health needs. This rule also extends to pilots conducting charitable medical flights for a volunteer pilot organization pursuant to an exemption issued under part 11, provided the pilots continue to comply with the conditions and limitations of the exemption.

In addition to pilots, this rule provides temporary relief to other persons such as flight attendant crewmembers, aircraft dispatchers, flight engineers, mechanics, and instructors. This relief extends to flight attendant crewmembers, check pilots, and flight instructors under subpart K of part 91, and part 125. Finally, this relief applies to operations conducted under part 107 by a person who holds a remote pilot certificate issued under part 107.

ii. Costs To Utilize Relief

This rule will result in small costs for affected operators to notify the FAA and submit plans to mitigate safety risks and ensure proficiencies. To take advantage of the extended relief provided by this rule, an affected certificate holder or A125 LODA holder will be required to submit a new or revised mitigation plan to its assigned FAA principal operations inspector. The plan will contain a safety analysis and corresponding risk mitigations and methods to ensure that each crewmember remains adequately tested and currently proficient for each aircraft, duty position, and type of operation in which the person serves. Similarly, part 91 management specifications holders must also conduct a safety analysis and provide appropriate mitigations in a plan to their FAA principal inspector that addresses potential risks introduced by extending crewmember, check pilot, and flight instructor qualifications, training, and checking. The plan must ensure crewmembers remain adequately trained and currently proficient for each aircraft, crewmember position, and type of operation in which the crewmember serves.

The FAA expects these plans to contain existing information maintained by affected operators. The FAA does not expect these plans to be burdensome.

Therefore, the FAA expects the benefits of this action exceed the costs since it provides additional relief to enable operators to continue to use pilots and other crewmembers in support of essential operations. As a result, this rule will reduce disruption to the continuity of essential services in response to the COVID-19 public health emergency. This rule also provides extended relief from certain duration and renewal requirements to reduce

unnecessary risk of exposure and to assure persons that they will not endure economic burdens due to non-compliance with certain regulations.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), in 5 U.S.C. 603, requires an agency to prepare an initial regulatory flexibility analysis describing impacts on small entities whenever an agency is required by 5 U.S.C. 553, or any other law, to publish a general notice of proposed rulemaking for any proposed rule. Similarly, 5 U.S.C. 604 requires an agency to prepare a final regulatory flexibility analysis when an agency issues a final rule under 5 U.S.C. 553, after being required by that section or any other law to publish a general notice of proposed rulemaking. The FAA found good cause to forgo notice and comment and any delay in the effective date for this rule. As notice and comment under 5 U.S.C. 553 are not required in this situation, the regulatory flexibility analyses described in 5 U.S.C. 603 and 604 are not required.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96-39) prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to this Act, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

The FAA has assessed the potential effect of this final rule and determined that its purpose has a legitimate domestic objective to promote the continuity and safety of U.S. civil aviation from risks of the COVID-19 public health emergency while supporting essential services necessary to fight the public health emergency. Therefore, the FAA has determined this final rule complies with the Trade Agreements Act of 1979.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or

final agency rule that may result in an expenditure of \$100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action." The FAA currently uses an inflation-adjusted value of \$155 million in lieu of \$100 million.

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public.

As previously discussed, to utilize the temporary relief provided by this SFAR amendment, an affected certificate holder or a part 125 LODA holder must provide a plan to its assigned FAA principal operations inspector. The plan is to contain a safety analysis and corresponding risk mitigations and methods to ensure that each crewmember remains adequately tested and currently proficient for each aircraft, duty position, and type of operation in which the person serves.

While SFAR 118 provided relief in the form of a grace period for those entities whose base month for completing the recurrent testing, checking, and training requirements was March, April, May, or June 2020, this final rule extends the grace period to those whose base month falls in July 2020 through September 2020. A part 125 certificate holder or A125 LODA holder will, therefore, be required to submit a new or revised mitigation plan to take advantage of the relief provided in this amendment.

In SFAR 118, the FAA estimated that of the 69 part 125 certificate holders and A125 LODA holders, all would avail themselves of the relief provided by SFAR 118, and therefore would be required to provide mitigation plans to their assigned principal operations inspector. For this final rule, the FAA estimates that those same 69 part 125 certificate holders and A125 LODA holders will avail themselves of the extended grace period for those entities whose base month falls in July, August, and September 2020 and will submit new or revised mitigation plans. The FAA continues to estimate that each respondent would spend two hours preparing and submitting its plan, for a total of 138 hours. The FAA believes the additional paperwork burden would be borne by the director of operations. At \$51 per hour multiplied by 138 total hours, the FAA estimates the total

burden to part 125 certificate holders and A125 LODA holders for this amendment to be \$7,038.⁵⁸ Therefore, the total burden of this collection is estimated to be \$14,076.⁵⁹

The FAA estimates that it would require an Aviation Safety Inspector (ASI) one hour to review and analyze a plan submitted by a part 125 certificate holder or A125 LODA holder. With 69 part 125 certificate holders or A125 LODA holders estimated to have submitted a plan to take advantage of the relief in SFAR 118 and the same 69 part 125 certificate holders and A125 LODA holders expected to submit a new or revised plan for this amendment, the total number of plans for review by an ASI is 138. The total number of plans to review multiplied by the hourly wage of a GS-13 FAA ASI results in an estimated burden to the FAA of \$13,720 (138 responses × 1 hour × \$99.42 = \$13,720).⁶⁰

As provided under 5 CFR 1320.13, Emergency Processing, and the Paperwork Reduction Act and its implementing regulations, DOT is requesting emergency processing to amend the temporary collection of information previously approved under emergency processing with the original SFAR (OMB 2120-0788). DOT cannot reasonably comply with normal clearance procedures because the information is necessary to provide temporary relief to persons who have been unable to meet certain requirements during the COVID-19 public health emergency. Without this information, certain individuals will not be able to continue exercising privileges in support of essential operations due to their inability to satisfy certain training, recent experience, testing, and checking

requirements. In addition, other individuals may—to the extent possible given closures—attempt to satisfy requirements contrary to the national social distancing guidelines solely to avoid economic burdens resulting from non-compliance with FAA regulations. The use of normal clearance procedures will result in increased economic burden, disruption to critical aviation operations, and increased risk of exposure during this public health emergency. Due to the pressing considerations associated with the COVID-19 public health emergency, it is not practicable to afford ninety days of public comment on this collection of information. Therefore, FAA is requesting OMB approval of this temporary collection of information upon the date that this SFAR is placed on public inspection at the **Federal Register**. Upon OMB approval of its Emergency clearance request, FAA will follow the normal clearance procedures for the information collection associated with this SFAR.

F. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices (SARPs) to the maximum extent practicable. On April 3, 2020, ICAO issued a State Letter (AN 11/55-20/50) to address operational measures States are taking to ensure safe operations during the COVID-19 public health emergency. ICAO recognized the varying needs of the States to provide relief and encouraged States to be flexible in their approaches for relief while also adhering to their obligations under the Convention on International Civil Aviation. During this period of relief, ICAO is paying particular attention to the SARPs related to certificates and licenses. ICAO has established a process for States to file temporary differences through a COVID-19 Contingency-Related Differences (CCRDs) sub-system, which is accessible through ICAO's Continuous Monitoring Approach (CMA) Online Framework of Electronic Filing of Differences (EFOD) dashboard that States use normally to file differences related to the Annexes. When States are submitting their differences, ICAO is requiring the State also to indicate whether it will recognize the differences of other States. FAA has already filed temporary differences with some of the relief it has given through exemptions under 14 CFR part 11 and has indicated it will recognize other States' differences

unless the FAA deems safety is being compromised. ICAO tentatively plans to maintain the CCRD sub-system through March 31, 2021.

The FAA has reviewed the corresponding ICAO SARPs and has identified the following differences with these proposed regulations. In Annex 1, section 1.2.4.4.1, a medical assessment can be extended at the FAA's discretion up to 45 days. With this final rule, the FAA is extending the validity by three calendar months for pilots with expiring medicals between April 2020 and September 2020. As a result, the FAA will update the temporary difference filed with ICAO.

In Annex 6, Part 2, Section 3.9.4.2, a PIC is required to have made three takeoffs and landings within the preceding ninety days on the same type of airplane or in a flight simulator prior to serving as a PIC in that airplane. With this final rule, the FAA is extending the look-back period by sixty days for PICs conducting operations under part 91, subpart N, and part 125 operations. As a result, the FAA will update the temporary difference filed with ICAO.

In Annex 6, Part 2, Section 3.9.4.3, an SIC is required to have made three takeoffs and landings within the preceding ninety days on the same type of airplane or in a flight simulator prior to serving as a SIC in that airplane. With this final rule, the FAA is extending the look-back period by sixty days for SICs conducting operations under part 91, subpart N, and part 125 operations. As a result, the FAA will update the temporary difference filed with ICAO.

Apart from this SFAR's application within the United States, certificate holders or operators may dispatch or release flights, and pilots and crewmembers may operate outside of the United States under this SFAR, unless otherwise prohibited by a foreign country. For international operations where pilots and crewmembers will exercise the relief identified here, they must have access to this SFAR when outside the United States. In accordance with the Convention on International Civil Aviation (Chicago Convention), and its Annexes, pilots and crewmembers must present a copy of this SFAR for inspection upon request by a foreign civil aviation authority.

V. Executive Order Determinations

A. Executive Order 12114, Environmental Effects Abroad of Major Federal Actions

The FAA has analyzed this action under Executive Order 12114, Environmental Effects Abroad of Major Federal Actions (44 FR 1957, January 4,

⁵⁸ The FAA is using the BLS wage rate for commercial pilots of \$39.54 per hour (<https://www.bls.gov/ooh/transportation-and-material-moving/airline-and-commercial-pilots.htm>) (\$82,240/2080 hours = \$39.54) multiplied by a fringe benefit multiplier of 29.9 percent (<https://www.bls.gov/news.release/ecec.nr0.htm>) which results in an hourly wage of \$51.

⁵⁹ The burden for the original plan submission from SFAR 118 was \$7,038. That is added to the amendment burden for new or revised plan submissions of \$7,038 for a total of \$14,076.

⁶⁰ The FAA assumes a mid-grade GS-13 salary, Rest of USA locality. Annual salary is \$103,396 (<https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/RUS.pdf>) divided by 2,080 hours for an hourly rate of \$49.70. The FAA uses a fringe benefits and overhead cost, for FAA employees, of 100%, which results in a fully loaded wage of \$99.42 per hour. The U.S. Department of Health and Human Services, "Guidelines for Regulatory Impact Analysis" (2016), on page 30, HHS states, "As an interim default, while HHS conducts more research, analysts should assume overhead costs (including benefits) are equal to 100 percent of pretax wages . . ." (https://aspe.hhs.gov/system/files/pdf/242926/HHS_RIAGuidance.pdf).

1979), and DOT Order 5610.1C, Paragraph 16. Executive Order 12114 requires the FAA to be informed of environmental considerations and take those considerations into account when making decisions on major Federal actions that could have environmental impacts anywhere beyond the borders of the United States. Like SFAR 118, the FAA has determined that this action is exempt pursuant to Section 2–5(a)(i) of Executive Order 12114 because it does not have the potential for a significant effect on the environment outside the United States.

In accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 8–6(c), the FAA has prepared a memorandum for the record stating the reason(s) for this determination and has placed it in the docket for SFAR 118 (the same docket for this rulemaking). The FAA reviewed the memorandum it added to the docket to support SFAR 118 and finds the determination applies to this rule unchanged.

B. Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. The agency determined that this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have federalism implications.

C. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it is not a “significant energy action” under the Executive order and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

D. Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. As described in Section IV. F., International Compatibility, the FAA is working with ICAO and other foreign Civil Aviation Authorities

(CAAs) on the kind of relief provided by this SFAR. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation. The provisions in this final rule provide temporary relief to persons who are unable to meet certain requirements during the COVID–19 public health emergency and prevents persons from encountering situations that would unnecessarily increase the risk of transmission of the virus through personal contact.

F. Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs

This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

VI. How To Obtain Additional Information

A. Availability of Rulemaking Documents

An electronic copy of a rulemaking document may be obtained by using the internet —

1. Search the Federal eRulemaking Portal (<https://www.regulations.gov/>);
2. Visit the FAA’s Regulations and Policies web page at https://www.faa.gov/regulations_policies/ or
3. Access the Government Printing Office’s web page at <https://www.govinfo.gov/>.

Copies may also be obtained by sending a request (identified by notice, amendment, or docket number of this rulemaking) to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–9677.

B. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document, may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA, visit https://www.faa.gov/regulations_policies/rulemaking/sbre_act/.

List of Subjects

14 CFR Part 21

Aircraft, Aviation safety, Exports, Imports, Reporting and recordkeeping requirements.

14 CFR Part 61

Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements, Security measures, Teachers.

14 CFR Part 63

Aircraft, Airman, Aviation safety, Navigation (air), Reporting and recordkeeping requirements, Security measures.

14 CFR Part 65

Air traffic controllers, Aircraft, Airmen, Airports, Aviation safety, Reporting and recordkeeping requirements, Security measures.

14 CFR Part 91

Air carrier, Air taxis, Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Charter flights, Freight, Reporting and recordkeeping requirements, Transportation.

14 CFR Part 107

Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements, Security measures, Signs and symbols.

14 CFR Part 125

Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 141

Airmen, Educational facilities, Reporting and recordkeeping requirements, Schools.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of title 14, Code of Federal Regulations, as follows:

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND ARTICLES

- 1. The authority citation for part 21 continues to read as follows:

Authority: 42 U.S.C. 7572; 49 U.S.C. 106(f), 106(g), 40105, 40113, 44701–44702, 44704, 44707, 44709, 44711, 44713, 44715, 45303.

- 2. Remove Special Federal Aviation Regulation (SFAR) No. 118 from part 21 and add, in its place, SFAR No. 118–1 to part 21 to read as follows:

Special Federal Aviation Regulation No. 118-1—Relief for Certain Persons During the National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Public Health Emergency

For the text of SFAR No. 118-1, see part 61 of this chapter.

PART 61—CERTIFICATION: PILOTS, FLIGHT INSTRUCTORS, AND GROUND INSTRUCTORS

■ 3. The authority citation for part 61 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701-44703, 44707, 44709-44711, 44729, 44903, 45102-45103, 45301-45302; Sec. 2307 Pub. L. 114-190, 130 Stat. 615 (49 U.S.C. 44703 note).

■ 4. Remove Special Federal Aviation Regulation (SFAR) No. 118 from part 61 and add, in its place, SFAR No. 118-1 to part 61 to read as follows:

Special Federal Aviation Regulation No. 118-1—Relief for Certain Persons During the National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Public Health Emergency

1. *Applicability.* This Special Federal Aviation Regulation (SFAR) applies to—

(a) Certain persons who are unable to meet the following requirements during some period between March 1, 2020 and September 30, 2020—

(1) Training, recency, testing and checking requirements specified in parts 61, 91, 107, and 125 of this chapter, and SFAR No. 73 of this part; and

(2) Duration and renewal requirements specified in parts 61, 63, 65, and 141 of this chapter, and SFAR No. 100-2 of this part; and

(b) Certain air carriers and operators who are unable to obtain special flight permits with a continuing authorization under part 21 of this chapter for the purpose of flying the aircraft to a point of storage.

2. *Training, recency, testing, and checking requirements.*

(a) *Applicability.* The relief provided by paragraph 2 of this SFAR applies to—

(1) Operations conducted for compensation or hire under parts 91, 125, 133, and 137 of this chapter by persons who are exercising the privileges of at least a commercial pilot certificate issued under this part;

(2) Operations conducted by persons who are exercising the privileges of a private pilot certificate issued this part, provided the person meets one of the following paragraphs—

(i) The person is conducting a charitable medical flight for a volunteer

pilot organization pursuant to an exemption issued under part 11 of this chapter, and the flight involves only the carriage of persons considered essential for the flight;

(ii) The person is conducting an agricultural aircraft operation under a private agricultural aircraft operating certificate issued in accordance with § 137.19 of this chapter;

(iii) The person has at least 500 hours of total time as a pilot, that includes at least 400 hours as a pilot in command and at least 50 hours that were accrued within the preceding 12 calendar months, and the person is conducting one of the following operations consistent with the compensation or hire exceptions specified in § 61.113:

(A) A flight incidental to that person's business or employment;

(B) A flight in support of family medical needs or to transport essential goods for personal use;

(C) A flight necessary to fly an aircraft to a location in order to meet a requirement of this chapter; or

(D) A flight to transport essential goods and medical supplies to support public health needs;

(3) For operations conducted under part 91, subpart K, and part 125 of this chapter, persons who are serving as flight attendant crewmembers, check pilots, and flight instructors; and

(4) Operations conducted under part 107 of this chapter by a person who holds a remote pilot certificate issued under part 107 of this chapter.

(b) *This Part.*

(1) *Second-in-command qualifications of § 61.55.* (i) *Airmen requirements.* Notwithstanding the period specified in § 61.55(c) of this chapter, a person who is required to complete the second-in-command familiarization and currency requirements under § 61.55(b)(1) and (2) between March 1, 2020 and September 30, 2020 for purposes of maintaining second-in-command privileges may complete the requirements of § 61.55(b)(1) and (2) in the month before or three months after the month in which they are required, provided the pilot meets the requirements of paragraph 2.(b)(1)(ii) of this SFAR. A pilot who meets the requirements of § 61.55(b)(1) and (2) within the period prescribed by this paragraph 2.(b)(1)(i) will be considered to have completed the requirements in the month in which they were due.

(ii) *Qualification requirements.* To complete the requirements of § 61.55(b)(1) or (2) within the period specified in paragraph 2.(b)(1)(i) of this SFAR, the person—

(A) Must review and become familiar with the following information for the specific type of aircraft for which second-in-command privileges are sought—

(1) Operational procedures applicable to the powerplant, equipment, and systems;

(2) Performance specifications and limitations;

(3) Normal, abnormal, and emergency operating procedures;

(4) Flight manual; and

(5) Placards and markings; and

(B) Prior to serving as second-in-command, must have logged at least three takeoffs and landings to a full stop as the sole manipulator of the flight controls within the 180 days preceding the date of the flight.

(2) *Flight review requirements of § 61.56.* A person who has not completed a flight review within the previous 24 calendar months in accordance with § 61.56 may continue to act as pilot in command of an aircraft, provided the following requirements are met—

(i) *Airmen requirements.* The person was current to act as pilot in command of an aircraft in March 2020 and, to maintain currency, is required to complete a flight review under § 61.56 between March 1, 2020 and September 30, 2020.

(ii) *Qualification requirements.* To act as pilot in command of an aircraft during the period specified in paragraph 2.(b)(2)(iii) of this SFAR, the person must have—

(A) Within the 12 calendar months preceding the month in which the flight review is due, logged at least 10 hours of flight time as pilot in command in an aircraft for which that pilot is rated; and

(B) Since January 1, 2020 and preceding the date of flight, completed online Wings courses for pilots from the FAA Safety Team website, available at www.faa.gov. The online training courses must total at least 3 Wings credits.

(iii) *Grace period.* The person may act as pilot in command of an aircraft for a duration of three calendar months from the month in which the flight review was due. Before acting as pilot in command of an aircraft in the fourth month after the month in which the flight review was due, the person must satisfactorily complete a flight review in accordance with § 61.56.

(3) *Instrument experience requirements of § 61.57.* A person who has not performed and logged the tasks required by § 61.57(c)(1) within the 6 calendar months preceding the month of the flight may continue to act as pilot in command under IFR or in weather

conditions less than the minimums prescribed for VFR, provided the following requirements are met—

(i) *Qualification requirements.* The person has—

(A) Within the 6 calendar months preceding the month of the flight, performed and logged at least three instrument approaches in actual weather conditions, or under simulated conditions using a view-limiting device; and

(B) Within the 9 calendar months preceding the month of the flight, performed and logged the tasks required by § 61.57(c)(1).

(ii) *Grace period.* Between April 30, 2020 and September 30, 2020, a person who meets the qualification requirements of paragraph 2.(b)(3)(i) of this SFAR may act as pilot in command under IFR or in weather conditions less than the minimums prescribed for VFR.

(iii) *Instrument currency after September 30, 2020.* Before acting as pilot in command under IFR or in weather conditions less than the minimums prescribed for VFR after September 30, 2020, the person must comply with § 61.57(c).

(4) *Pilot in command proficiency check requirements of § 61.58.* (i) *Airmen requirements.* Notwithstanding the period specified in § 61.58(i), a pilot who is required to take a pilot in command proficiency check under § 61.58(a)(1) or (2) between March 1, 2020 and September 30, 2020 for purposes of maintaining pilot in command privileges may complete the check in the month before or three months after the month in which it is required, provided the pilot meets the requirements of paragraph 2.(b)(4)(ii) of this SFAR. A pilot who completes the proficiency check within the period prescribed by this paragraph 2.(b)(4)(i) will be considered to have completed the check in the month in which it was required.

(ii) *Qualification requirements.* To complete the pilot in command proficiency check required by § 61.58(a)(1) or (2) within the period specified in paragraph 2.(b)(4)(i) of this SFAR, the person—

(A) Must meet the flight experience requirements of § 61.57 that are applicable to the operation to be conducted; and

(B) Within the 3 calendar months preceding the month of the flight, must have reviewed the following information for the specific type of aircraft for which pilot in command privileges are sought—

(1) Operational procedures applicable to the powerplant, equipment, and systems;

(2) Performance specifications and limitations;

(3) Normal, abnormal, and emergency operating procedures;

(4) Flight manual; and

(5) Placards and markings.

(5) *Flight Crewmember Requirements of Part 91, Subpart K, of this Chapter.*

(i) *Testing and checking Requirements.* Notwithstanding the period specified in § 91.1071(a) of this chapter, a crewmember who is required to take a test or a flight check under § 91.1065(a), § 91.1065(b), § 91.1067, § 91.1069(a), or § 91.1069(b) of this chapter between March 1, 2020 and September 30, 2020 for purposes of maintaining qualification may complete the test or check in the month before or three months after the month it is required, provided the requirements of paragraph 2.(b)(5)(vi) of this SFAR are met. A crewmember who completes a test or check in accordance with this paragraph will be considered to have completed the test or check in the month in which it was required.

(ii) *Recurrent training requirements.* Notwithstanding the period specified in § 91.1073(b) of this chapter, a crewmember who is required to complete recurrent training under §§ 91.1099 or 91.1107(c) of this chapter between March 1, 2020 and September 30, 2020 for purposes of maintaining qualification may complete that training in the month before or three months after the month in which it is required, provided the requirements of paragraph 2.(b)(5)(vi) of this SFAR are met. A crewmember who completes recurrent training in accordance with this paragraph 2.(b)(5)(ii) will be considered to have completed the training in the month in which it was required.

(iii) *Instrument experience.*

(A) *Precision instrument approaches.* A pilot who has not satisfactorily demonstrated the type of precision instrument approach procedure to be used within the previous six months in accordance with § 91.1069(c) of this chapter may continue to use that type of approach procedure, provided the following requirements are met—

(1) *Airmen requirements.* The person was current under § 91.1069(c) of this chapter to use that type of precision instrument approach procedure in March 2020, and is required to demonstrate that type of precision instrument approach procedure between March 1, 2020 and September 30, 2020.

(2) *Grace period.* The person satisfactorily demonstrates that type of precision instrument approach procedure within three months after the month in which it was required.

(3) *Safety mitigations.* The management specification holder satisfies paragraph 2.(b)(5)(vi) of this SFAR.

(B) *Non-precision instrument approaches.* A pilot who has not satisfactorily demonstrated either the type of non-precision instrument approach procedure to be used, or any other two different types of non-precision approach procedures, within the previous six months in accordance with § 91.1069(c) of this chapter may continue to use that type of non-precision instrument approach procedure, provided the following requirements are met—

(1) *Airmen requirements.* The person was current under § 91.1069(c) of this chapter to use that type of non-precision instrument approach procedure in March 2020, and is required to demonstrate that type of non-precision instrument approach procedure, or any other two different types of non-precision instrument approach procedures, between March 1, 2020 and September 30, 2020.

(2) *Grace period.* The person satisfactorily demonstrates that type of non-precision instrument approach procedure within three months after the month in which it was required.

(3) *Safety mitigations.* The management specification holder satisfies paragraph 2.(b)(5)(vi) of this SFAR.

(iv) *Check pilot (simulator) and flight instructor (simulator) requirements.* Notwithstanding the period specified in §§ 91.1089(g) and 91.1091(g) of this chapter, a check pilot (simulator) or flight instructor (simulator) who is required to complete the flight segments or line-observation program under § 91.1089(f) or § 91.1091(f) of this chapter between March 1, 2020 and September 30, 2020 for purposes of maintaining qualification may complete the flight segments or line-observation program requirements in the month before or three months after the month they are required, provided the requirements of paragraph 2.(b)(5)(vi) of this SFAR are met. A check pilot (simulator) or flight instructor (simulator) who completes the flight segments or line-observation program requirements in accordance with this paragraph 2.(b)(5)(iv) will be considered to have completed the requirements in the month in which they were due.

(v) *Check pilot and flight instructor observation check requirements.* Notwithstanding the period specified in §§ 91.1093(b) and 91.1095(b) of this chapter, a check pilot or flight instructor who is required to complete an observation check under § 91.1093(a)(2)

or § 91.1095(a)(2) of this chapter between March 1, 2020 and September 30, 2020 for purposes of maintaining qualification may complete the observation check in the month before or three months after the month it is required, provided the requirements of paragraph 2.(b)(5)(vi) of this SFAR are met. A check pilot or flight instructor who completes an observation check in accordance with this paragraph 2.(b)(5)(v) will be considered to have completed the check in the month it which it was due.

(vi) *Safety mitigations.* The management specification holder must provide an acceptable plan to the responsible Flight Standards office that contains the following information—

(A) A safety analysis and corresponding risk mitigations to be implemented by the management specification holder; and

(B) The method the management specification holder will use to ensure that each crewmember complying with paragraph 2.(b)(5) of this SFAR remains adequately tested and currently proficient for each aircraft, duty position, and type of operation in which the person serves.

(6) *Mitsubishi MU-2B Series Special Training, Experience, and Operating Requirements of Part 91, Subpart N, of this Chapter.*

(i) *Recurrent training.*

Notwithstanding the period specified in § 91.1705(e) of this chapter, a person who is required to complete recurrent training under § 91.1703(e) of this chapter between March 1, 2020 and September 30, 2020 for purposes of complying with § 91.1705(a) and (b) may complete the recurrent training in the month before or three months after the month the recurrent training is required, provided the requirements of paragraph 2.(b)(6)(iii) of this SFAR are met. A person who completes the recurrent training in accordance with this paragraph 2.(b)(6)(i) will be considered to have completed the training in the month it was required.

(ii) *Flight review.* A person who has not completed a flight review in accordance with §§ 61.56 and 91.1715(c) of this chapter in a Mitsubishi MU-2B series airplane or an MU-2B Simulator approved for landings with an approved course conducted under part 142 of this chapter may continue to act as pilot in command of a Mitsubishi MU-2B series airplane, providing the following requirements are met—

(A) *Airmen requirements.* The person was—

(1) Current to act as pilot in command of a Mitsubishi MU-2B series airplane in March 2020 and, to maintain

currency, is required to complete a flight review in a Mitsubishi MU-2B series airplane between March 1, 2020 and September 30, 2020; and

(2) The requirements of paragraph 2.(b)(6)(iii) of this SFAR are met.

(B) *Grace period.* The person may act as pilot in command of a Mitsubishi MU-2B series airplane for a duration for three calendar months from the month in which the flight review was due. Before acting as pilot in command of an aircraft in the fourth month after the month in which the flight review was due, the person must satisfactorily complete a flight review in accordance with §§ 61.56 and 91.1715(c) of this chapter in a Mitsubishi MU-2B series airplane or an MU-2B Simulator approved for landings with an approved course conducted under part 142 of this chapter.

(iii) *Qualification requirements.* To complete the recurrent training or flight review during the grace period provided under paragraph 2.(b)(6) of this SFAR, the person must—

(A) Within the 12 calendar months preceding the month the recurrent training or flight review is due, logged at least 10 hours of flight time in an MU-2B series airplane that includes at least 3 hours of flight time in the 3 calendar months preceding the month in which the recurrent training or flight review is due;

(B) Since January 1, 2020, completed online Wings courses for pilots from FAA Safety Team website, available at www.faasafety.gov. The online training courses must total at least 3 Wings credits; and

(C) Prior to manipulating the controls of an MU-2B series airplane, completed three hours of self-study, since January 1, 2020 and preceding the date of the flight, on the following subjects—

(1) The ground training curriculum required by § 91.1705(h)(1) of this chapter;

(2) The *Special Emphasis Items* listed in the approved MU-2B training program that the pilot last completed;

(3) The limitations, procedures, aircraft performance, and MU-2B Cockpit Checklist procedures applicable to the MU-2B model to be flown, which are contained in the flight training curriculum required by § 91.1705(h)(2) of this chapter; and

(4) The current general operating and flight rules of part 91 of this chapter.

(7) *Aeronautical Knowledge Recency Requirements of § 107.65 of this Chapter.* A person who has not satisfied the aeronautical knowledge recency requirements of § 107.65(a) or (b) of this chapter within the previous 24 calendar months may operate a small unmanned

aircraft system under part 107 of this chapter, provided that person meets the following requirements—

(i) *Airmen requirements.* The person was current to exercise the privileges of a remote pilot certificate in March 2020 and, to maintain aeronautical currency, is required to meet the aeronautical recency requirements in § 107.65(a) or (b) of this chapter between April 1, 2020 and September 30, 2020.

(ii) *Qualification requirements.* The person must have completed an FAA-developed initial or recurrent online training course, available at www.faasafety.gov, covering the areas of knowledge specified in § 107.74(a) or (b) of this chapter. Each person is eligible to take an online training course specified in this paragraph 2.(b)(7)(ii) one time for the purpose of obtaining the six calendar month grace period specified in paragraph 2.(b)(7)(iii) of this SFAR;

(iii) *Grace period.* The person may operate a small unmanned aircraft system under part 107 of this chapter for a duration of six calendar months from the month in which the person completed the online training course specified in paragraph 2.(b)(7)(ii) of this SFAR. Before operating a small unmanned aircraft system under part 107 in the seventh month after the month in which the person completed the online training course, the person must satisfy § 107.65 of this chapter.

(8) *Flight Crewmember Requirements of Part 125 of this Chapter.*

(i) *Recent experience requirements.* A person who has not satisfied the recent experience requirements of § 125.285(a) of this chapter may be used by a certificate holder (or holder of an A125 letter of deviation authority), and may serve as a required pilot flight crewmember, in operations conducted under part 125 of this chapter, provided the following requirements are met—

(A) *Grace period.* The person has made at least three takeoffs and landings, within the preceding 150 days, in the type of airplane in which that person is to serve.

(B) *Safety Mitigations.* The certificate holder complies with paragraph 2.(b)(8)(iii) of this SFAR.

(ii) *Testing and checking requirements.* Notwithstanding the period specified in § 125.293(a) of this chapter, a crewmember who is required to take a test or check under § 125.287(a), § 125.287(b), § 125.289, or § 125.291(a) of this chapter between March 1, 2020 and September 30, 2020 for purposes of maintaining qualifications may complete the test or check in the month before or three months after the month it is required,

provided the requirements of paragraph 2.(b)(8)(iii) of this SFAR are met. A crewmember who completes the test or check in accordance with this paragraph 2.(b)(8)(ii) will be considered to have completed the test or check in the month in which it was required.

(iii) *Safety mitigations.* The certificate holder (or holder of an A125 letter of deviation authority) must provide an acceptable plan to its assigned principal operations inspector that contains the following information—

(A) A safety analysis and corresponding risk mitigations to be implemented by the certificate holder (or holder of an A125 letter of deviation authority); and

(B) The method the certificate holder (or holder of an A125 letter of deviation authority) will use to ensure that each crewmember complying with paragraph 2.(b)(8) of this SFAR remains adequately tested and currently proficient for each aircraft, duty position, and type of operation in which the person serves.

(9) *Robinson R-22/R-44 Special Training and Experience Requirements of SFAR No. 73 of this Part.* A person who has not completed a flight review in a Robinson model R-22 or R-44 helicopter, as appropriate, within the preceding 24 calendar months in accordance with paragraph 2(c) of SFAR No. 73 and § 61.56, may continue to act as pilot in command of a Robinson model R-22 or R-44 helicopter, as appropriate, providing the following requirements are met—

(i) *Airmen requirements.* The person was current to act as pilot in command of a Robinson model R-22 or R-44 helicopter, as appropriate, in March 2020 and, to maintain currency, is required to complete a flight review in a Robinson model R-22 or R-44 helicopter, as appropriate, between March 1, 2020 and September 30, 2020.

(ii) *Qualification requirements.* The person must—

(A) Satisfy the qualification requirements specified in paragraph 2.(b)(2)(ii) of this SFAR, except

(1) The 10 hours of flight time as pilot in command must be obtained in a Robinson model R-22 or R-44 helicopter, as appropriate to the privileges sought;

(2) At least 3 hours of flight time must be obtained within the 3 calendar months preceding the month in which the flight review is due; and

(3) The courses required by paragraph 2.(b)(9)(ii)(C) and (D) of this SFAR may count towards the 3 Wings credits.

(B) Complete three hours of self-study, since January 1, 2020 and preceding the date of flight, on the following subjects—

(1) The awareness training subject areas specified in paragraph 2.(a)(3)(i) through (v) of SFAR No. 73 of this part;

(2) The current general operating and flight rules of part 91 of this chapter;

(3) Robinson R-22 or R-44 Maneuvers Guide, as applicable to the model(s) in which the airmen holds pilot in command privileges;

(C) Complete Course ALC-103: Helicopter Weight and Balance, Performance at www.faa.gov; and

(D) Complete Course ALC-104: Helicopter—General and Flight Aerodynamics at www.faa.gov.

(iii) *Grace period.* A person may act as a pilot in command of a Robinson model R-22 or R-44 helicopter, as appropriate, for a duration of three calendar months from the month in which the flight review was due. Before acting as pilot in command of an aircraft in the fourth month after the month in which the flight review was due, the person must satisfactorily complete a flight review in a Robinson model R-22 or R-44 helicopter, as appropriate to the privileges sought, in accordance with paragraph 2(c) of SFAR No. 73 of this part and § 61.56.

3. *Duration and renewal requirements.*

(a) *This Part.*

(1) *Extension of medical certificate duration requirements.* The expiration date of a first-, second-, or third- class medical certificate that expires between March 31, 2020 and September 30, 2020 is extended three calendar months from the duration established in § 61.23(d) of this part. A certificate extended under this paragraph 3.(a)(1) is considered valid under § 61.2(a)(5). Unless otherwise prohibited by a foreign country, a person may operate outside of the United States under this paragraph 3.(a)(1) if the person—

(i) Has access to this SFAR when outside the United States; and

(ii) Presents a copy of this SFAR for inspection upon request by a foreign Civil Aviation Authority in accordance with the Convention on International Civil Aviation (Chicago Convention), and its Annexes.

(2) *Extension of knowledge test duration requirements in § 61.39.* An applicant for a certificate or rating issued under part 61 of this chapter may satisfy the eligibility requirement in § 61.39(a)(1) by passing the required knowledge test:

(i) Within the 27-calendar month period preceding the month the applicant completes the practical test, if a knowledge test is required, provided the knowledge test was passed between March 1, 2018 and September 30, 2018; or

(ii) Within the 63-calendar month period preceding the month the applicant completes the practical test for those applicants who complete the airline transport pilot certification training program in § 61.156 and pass the knowledge test for an airline transport pilot certificate with a multiengine class rating, provided the knowledge test was passed between March 1, 2015 and September 30, 2015.

(3) *Extension of renewal requirements for flight instructor certification.* The holder of a flight instructor certificate that expires between March 31, 2020 and May 31, 2020 may renew his or her flight instructor certificate by submitting a completed and signed application to the FAA and satisfactorily completing one of the renewal requirements specified in § 61.197(a)(2)(i) through (iv) before June 30, 2020.

(b) *Part 63 of this Chapter.*

(1) *Extension of medical certificate duration requirements.* For a person acting as a flight engineer of an aircraft, the expiration date of a second-class (or higher) medical certificate that expires between March 31, 2020 and September 30, 2020 is extended 3 calendar months from the original expiration date. Unless otherwise prohibited by a foreign country, a person may operate outside of the United States under this paragraph 3.(b)(1) if the person:

(i) Has access to this SFAR when outside the United States; and

(ii) Presents a copy of this SFAR for inspection upon request by a foreign Civil Aviation Authority in accordance with the Convention on International Civil Aviation (Chicago Convention), and its Annexes.

(2) *Extension of written test duration requirements in § 63.35 of this chapter.*

An applicant for a flight engineer certificate or rating may satisfy the knowledge requirement in § 63.35(d) of this chapter by passing the required written test within the 27-calendar month period preceding the month the applicant completes the practical test, provided the written test was passed between March 1, 2018 and September 30, 2018.

(c) *Part 65 of this Chapter.*

(1) *Extension of knowledge test duration requirements in § 65.55 of this chapter.* An applicant for an aircraft dispatcher certificate may satisfy the knowledge requirement in § 65.55(b) of this chapter by presenting satisfactory evidence that the applicant passed the knowledge test within the 27-calendar month period preceding the month the applicant completes the practical test, provided the knowledge test was passed between March 1, 2018 and September 30, 2018.

(2) *Extension of testing period in § 65.71 of this chapter.* A person may show eligibility for a mechanic certificate or rating under § 65.71 of this chapter by passing all the prescribed tests of part 65, subpart D, of this chapter within a period of 27 months, provided the testing period began between March 1, 2018 and September 30, 2018.

(3) *Renewal of inspection authorizations in § 65.93 of this chapter.*

(i) *Grace period for meeting renewal requirements.* Notwithstanding the requirement in § 65.93(c) of this chapter, an inspection authorization holder who did not complete one of the activities in § 65.93(a)(1) through (5) of this chapter by March 31, 2020 of the first year may still be eligible for renewal of an inspection authorization for a 2-year period in March 2021. To be eligible for renewal, the inspection authorization holder must show completion of one of the five activities in § 65.93(a)(1) through (5) of this chapter by June 30, 2020, and completion of the one of the five activities in § 65.93(a)(1) through (5) of this chapter during the second year of the 2-year period. A person who completes one of the five activities by June 30, 2020 will be considered to have completed the activity by March 31, 2020 of the first year for purposes of determining eligibility under § 65.93 of this chapter.

(ii) *Inspection authorization privileges after June 2020.* If the inspection authorization holder does not complete one of the five activities in § 65.93(a)(1) through (5) of this chapter by June 30, 2020, the inspection authorization holder may not exercise inspection authorization privileges after June 30, 2020. The inspection authorization holder may resume exercising inspection authorization privileges only after passing an oral test from an FAA inspector in accordance with § 65.93(c) of this chapter.

(4) *Military riggers or former military riggers: Special certification rule of § 65.117 of this chapter.* A person may satisfy the requirements of § 65.117(a) and (b) of this chapter for a senior parachute rigger certificate by presenting satisfactory documentary evidence that the person was honorably discharged or released from any status covered by § 65.117(a) of this chapter between March 2019 and June 2019, and has served as a parachute rigger for an Armed Force within the 15 months before the date of application.

(d) *Relief for U.S. Military and Civilian Personnel Who are Assigned Outside the United States in Support of U.S. Armed Forces Operations.* Notwithstanding the six calendar month

period specified in paragraph 2 of SFAR No. 100–2 of this part, a person may exercise the relief specified in paragraph 1 of SFAR No. 100–2 for a duration of nine calendar months after returning to the United States, provided the person—

(i) Is eligible in accordance with paragraph 2 of SFAR No. 100–2 of this part;

(ii) Complies with the documentation requirements specified in paragraph 3 of SFAR No. 100–2 of this part; and

(iii) Returned to the United States from deployment between October 2019 and March 2020.

(e) *Part 141 of this Chapter.*

(1) *Pilot school certificate requirements of § 141.5 of this chapter.*

(i) *Provisional pilot school.*

Notwithstanding the period specified in § 141.5 of this chapter, a provisional pilot school may apply for, and the FAA may issue, a pilot school certificate with the appropriate ratings if the following requirements are met—

(A) The provisional pilot school must satisfy the requirements of § 141.5(a) through (e) of this chapter before December 31, 2020;

(B) The provisional pilot school certificate must expire between April 2020 and June 2020; and

(C) The provisional pilot school meets the requirements of paragraph 3.(e)(1)(ii) of this SFAR.

(ii) *Safety mitigations.*

(A) The provisional pilot school must notify its responsible Flight Standards office that it is applying for a pilot school certificate in accordance with this SFAR.

(B) Each provisional pilot school must include in its notification an acceptable plan that explains the method to meet the requirements of § 141.5(d) and (e) of this chapter, including—

(1) Ensuring each instructor used for ground or flight training is current and proficient; and

(2) Evaluating students to determine if they are assigned to the proper stage of the training course and if additional training is necessary.

(2) *Renewal of certificates and ratings in § 141.27 of this Chapter.*

(i) *Pilot school.* A pilot school may apply for renewal of its pilot school certificate and ratings after the expiration of its pilot schools certificate, provided the school applies for renewal before December 31, 2020 and the following requirements are met—

(A) The pilot school must meet § 141.27(a)(2) of this chapter before December 31, 2020;

(B) The pilot school certificate must expire between April 2020 and June 2020; and

(C) The pilot school meets the requirements of paragraph 3.(e)(2)(ii) of this SFAR.

(ii) *Safety mitigations.*

(A) Each pilot school must submit to the responsible Flight Standards office notification that it will renew its pilot school certificate in accordance with this SFAR.

(B) Each pilot school must include in its notification an acceptable plan that explains the method to regain currency, including—

(1) Ensuring each instructor used for ground or flight training is current and proficient; and

(2) Evaluating students to determine if they are assigned to the proper stage of the training course and if additional training is necessary.

4. *Other relief for special flight permits issued under § 21.197(c) of this chapter.* In addition to the purposes specified in § 21.197(c) of this chapter, notwithstanding §§ 119.5(l) and 91.1015(a) of this chapter, a special flight permit with a continuing authorization may be issued under § 21.197(c) of this chapter for aircraft that may not meet applicable airworthiness requirements, but are capable of safe flight for the purpose of flying the aircraft to a point of storage, provided the following requirements are met—

(a) The air carrier or operator must hold a special flight permit with continuing authorization to conduct a ferry flight program issued under § 21.197(c) of this chapter; and

(b) The certificate holder or management specification holder must notify the responsible Flight Standards office each time the special flight permit is used for the purpose of flying the aircraft to a point of storage.

5. *Expiration date.* This SFAR is effective until March 31, 2021. The FAA may amend, rescind, or extend the SFAR as necessary.

6. *Office of Management and Budget (OMB) control number.* The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) requires the FAA to get approval from OMB for our information collection activities. The OMB control number assigned to the FAA's information collection associated with this SFAR is 2120–0788.

PART 63—CERTIFICATION: FLIGHT CREWMEMBERS OTHER THAN PILOTS

■ 5. The authority citation for part 63 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

■ 6. Remove Special Federal Aviation Regulation (SFAR) No. 118 from part 63 and add, in its place, SFAR No. 118–1 to part 63 to read as follows:

Special Federal Aviation Regulation No. 118–1—Relief for Certain Persons During the National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Public Health Emergency

For the text of SFAR No. 118–1, see part 61 of this chapter.

PART 65—CERTIFICATION: FLIGHT CREWMEMBERS OTHER THAN PILOTS

■ 7. The authority citation for part 65 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

■ 8. Remove Special Federal Aviation Regulation (SFAR) No. 118 from part 65 and add, in its place, SFAR No. 118–1 to part 65 to read as follows:

Special Federal Aviation Regulation No. 118–1—Relief for Certain Persons During the National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Public Health Emergency

For the text of SFAR No. 118–1, see part 61 of this chapter.

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 9. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701–44703, 44707, 44709–44711, 44729, 44903, 45102–45103, 45301–45302; Sec. 2307 Pub. L. 114–190, 130 Stat. 615 (49 U.S.C. 44703 note).

■ 10. Remove Special Federal Aviation Regulation (SFAR) No. 118 from part 91 and add, in its place, SFAR No. 118–1 part 91 to read as follows:

Special Federal Aviation Regulation No. 118–1—Relief for Certain Persons During the National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Public Health Emergency

For the text of SFAR No. 118–1, see part 61 of this chapter.

PART 107—SMALL UNMANNED AIRCRAFT SYSTEMS

■ 11. The authority citation for part 107 continues to read as follows:

Authority: 49 U.S.C. 106(f), 40101 note, 40103(b), 44701(a)(5); Sec. 333 of Pub. L. 112–95, 126 Stat. 75.

■ 12. Remove Special Federal Aviation Regulation (SFAR) No. 118 from part 107 and add, in its place, SFAR No. 118–1 to part 107 to read as follows:

Special Federal Aviation Regulation No. 118–1—Relief for Certain Persons During the National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Public Health Emergency

For the text of SFAR No. 118–1, see part 61 of this chapter.

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 13. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–44717, 44722.

■ 14. Remove Special Federal Aviation Regulation (SFAR) No. 118 from part 125 and add, in its place, SFAR No. 118–1 to part 125 to read as follows:

Special Federal Aviation Regulation No. 118–1—Relief for Certain Persons During the National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Public Health Emergency

For the text of SFAR No. 118–1, see part 61 of this chapter.

PART 141—PILOT SCHOOLS

■ 15. The authority citation for part 141 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701–44703, 44707, 44709, 44711, 45102–45103, 45301–45302.

■ 16. Remove Special Federal Aviation Regulation (SFAR) No. 118 from part 141 and add, in its place, SFAR No. 118–1 to part 141 to read as follows:

Special Federal Aviation Regulation No. 118–1—Relief for Certain Persons During the National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Public Health Emergency

For the text of SFAR No. 118–1, see part 61 of this chapter.

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44703 in Washington, DC, on June 24, 2020.

Steve Dickson,

Administrator, Federal Aviation Administration.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0007; Airspace Docket No. 19–ASO–11]

RIN 2120–AA66

Revocation and Amendment of Multiple Air Traffic Service (ATS) Routes in the Vicinity of Newcombe, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends VHF Omnidirectional Range (VOR) Federal airways V–4 and V–119, and removes VOR Federal airways V–331 and V–478 in the vicinity of Newcombe, KY. The Air Traffic Service (ATS) route modifications are necessary due to the planned decommissioning of the VOR portion of the Newcombe, KY, VOR/Tactical Air Navigation (VORTAC) navigation aid (NAVAID) which provides navigation guidance for portions of the affected ATS routes. The Newcombe VOR is being decommissioned as part of the FAA’s VOR Minimum Operational Network (MON) program.

The VOR Federal airway V–53, V–115, V–140, and V–339, and Area Navigation (RNAV) route T–215 and T–323 modifications proposed in the notice of proposed rulemaking (NPRM) require additional coordination and flight inspection activities. As such, those ATS route modifications are removed from this rule.

DATES: Effective date 0901 UTC, September 10, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at https://www.faa.gov/air_traffic/publications/. For further information, you can contact

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a NPRM for Docket No. FAA-2020-0007 in the **Federal Register** (85 FR 3292; January 21, 2020), amending VOR Federal airways V-4, V-53, V-115, V-119, and V-140; amending low altitude RNAV routes T-215 and T-323; and removing VOR Federal airways V-331, V-339, and V-478 due to the planned decommissioning of the VOR portions of the Newcombe, KY, VORTAC and the Hazard, KY, VOR/Distance Measuring Equipment (VOR/DME) NAVAIDs. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Subsequent to the NPRM, the FAA determined VOR Federal airway V-53, V-115, V-140, and V-339, and RNAV route T-215 and T-323 modifications proposed in the NPRM, due to the planned decommissioning of the VOR portion of the Hazard, KY, VOR/DME,

require additional coordination and flight inspection activities. As a result, those ATS route modifications are removed from this rule and will be reworked in a separate rulemaking action.

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

Availability and Summary of Documents for Incorporation by Reference

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

Differences From the NPRM

In the NPRM, the FAA proposed to amend VOR Federal airways V-53, V-115, V-140; amend RNAV routes T-215 and T-323; and remove VOR Federal airway V-339 due to the planned decommissioning of the VOR portion of the Hazard, KY, VOR/DME NAVAID. However, additional coordination and flight inspection activity are required to modify these ATS routes at this time. Therefore, the ATS route amendments and removal noted above are not included in this final rule and will be reworked in a separate rulemaking action.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying VOR Federal airways V-4 and V-119, and removing VOR Federal airways V-331 and V-478. The planned decommissioning of the VOR portion of the Newcombe, KY, VORTAC NAVAID has made this action necessary. The airway changes are outlined below.

V-4: V-4 extends between the Tatoosh, WA, VORTAC and the Armel, VA, VOR/DME. The airway segment overlying the Newcombe, KY, VORTAC between the Lexington, KY, VOR/DME and the Charleston, WV, VORTAC is removed. The unaffected portions of the existing airway remain as charted.

V-119: V-119 extends between the Newcombe, KY, VORTAC and the Rochester, NY, VOR/DME. The airway segment overlying the Newcombe, KY,

VORTAC between the Newcombe, KY, VORTAC and the Henderson, WV, VORTAC is removed. The unaffected portions of the existing airway remain as charted.

V-331: V-331 currently extends between the Newcombe, KY, VORTAC and the Hazard, KY, VOR/DME. The airway is removed in its entirety.

V-478: V-478 currently extends between the Falmouth, KY, VOR/DME and the Beckley, WV, VOR/DME. The airway is removed in its entirety.

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

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

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action of modifying VOR Federal airways V-4 and V-119, and removing VOR Federal airways V-331 and V-478, due to the planned decommissioning of the VOR portion of the Newcombe, KY, VORTAC NAVAID, qualifies for categorical exclusion under the National Environmental Policy Act and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5-6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any

potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental impact assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–4 [Amended]

From Tatoosh, WA; INT of Tatoosh 102° and Seattle, WA, 329° radials; Seattle; Yakima, WA; Pendleton, OR; Baker, OR; Boise, ID; INT Boise 130° and Burley, ID, 292° radials; Burley; Malad City, ID; Rock Springs, WY; Cherokee, WY; Laramie, WY; Gill, CO; Thurman, CO; Goodland, KS; Hill City, KS; Salina, KS; Topeka, KS; Kansas City, MO; Hallsville, MO; St. Louis, MO; Troy, IL; Centralia, IL; Pocket City, IN; Louisville, KY; to Lexington, KY. From Charleston, WV; Elkins, WV; Kessel, WV; INT Kessel 097° and Armel, VA, 292° radials; to Armel.

* * * * *

V–119 [Amended]

From Henderson, WV; Parkersburg, WV; INT Parkersburg 067° and Indian Head, PA, 254° radials; Indian Head; Clarion, PA; Bradford, PA; Wellsville, NY; Geneseo, NY; to Rochester, NY.

* * * * *

V–331 [Removed]

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V–478 [Removed]

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Issued in Washington, DC, on June 22, 2020.

Scott M. Rosenbloom,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2020–13742 Filed 6–26–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–1105; Airspace Docket No. 19–AGL–17]

RIN 2120–AA66

Amendment of Multiple Air Traffic Service (ATS) Routes in the Northcentral United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends VHF Omnidirectional Range (VOR) Federal airways V–13, V–55, and V–505, and Area Navigation (RNAV) route T–354 in the Northcentral United States. The modifications are necessary due to the planned decommissioning of the VOR portion of the Siren, WI, VOR/Distance Measuring Equipment (VOR/DME) navigation aid (NAVAID) which provides navigation guidance for portions of the affected air traffic service (ATS) routes. The Siren VOR is being decommissioned as part of the FAA's VOR Minimum Operational Network (MON) program.

The VOR Federal airway V–15, V–26, V–78, V–100, V–159, V–175, V–219, and V–307, and Area Navigation (RNAV) route T–285 modifications proposed in the notice of proposed rulemaking (NPRM) require additional coordination and flight inspection activities. As such, those ATS route modifications are removed from this rule. Additionally, the V–55 and T–354 modifications effected by the Park Rapids, MN, VOR/DME proposed in the NPRM also require additional coordination and flight inspection activities, and are removed from this rule, too.

DATES: Effective date 0901 UTC, September 10, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of

FAA Order 7400.11 and publication of conforming amendments.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a NPRM for Docket No. FAA–2019–1105 in the **Federal Register** (85 FR 3295; January 21, 2020), amending VOR Federal airways V–13, V–15, V–26, V–55, V–78, V–100, V–159, V–175, V–219, V–307, and V–505, and RNAV routes T–285 and T–354 in the Northcentral United States. The proposed modifications were due to the planned decommissioning of the VOR portion of the Park Rapids, MN, VOR/DME; Siren, WI, VOR/DME; Sioux City, IA, VOR/Tactical Air Navigation (VORTAC); and Huron, SD, VORTAC NAVAIDs. Interested parties were invited to

participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Subsequent to the NPRM, the FAA determined the VOR Federal airway V-15, V-26, V-55, V-78, V-100, V-159, V-175, V-219, and V-307, and the RNAV route T-285 and T-354 modifications proposed in the NPRM, due to the planned decommissioning of the VOR portion of the Park Rapids, MN, VOR/DME; Sioux City, IA, VORTAC; and Huron, SD, VORTAC NAVAIDs, required additional coordination and flight inspection activities. As a result, those ATS route modifications are removed from this rule and will be reworked in a separate rulemaking action.

VOR Federal airways are published in paragraph 6010(a) and RNAV T-routes are published in paragraph 6011 of FAA Order 7400.11D dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in this document would be subsequently published in the Order.

Availability and Summary of Documents for Incorporation by Reference

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

Differences From the NPRM

In the NPRM, the FAA proposed amendments to VOR Federal airways V-15, V-26, V-55, V-78, V-100, V-159, V-175, V-219, and V-307, and RNAV routes T-285 and T-354 due to the planned decommissioning of the VOR portion of the Park Rapids, MN, VOR/DME; Sioux City, IA, VORTAC; and Huron, SD, VORTAC NAVAIDs. However, additional coordination and flight inspection activity are required to modify the route segments of these ATS routes that are effected by the Park Rapids VOR/DME, Sioux City VORTAC, and Huron VORTAC. Therefore, the ATS route amendments associated with those three NAVAIDs are not included in this final rule and will be reworked in a separate rulemaking action.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying VOR Federal airways V-13, V-55, and V-505, and RNAV route

T-354. The planned decommissioning of the VOR portion of the Siren, WI, VOR/DME NAVAID has made this action necessary. The VOR Federal airway changes are outlined below.

V-13: V-13 extends between the McAllen, TX, VOR/DME and the Thunder Bay, ON, Canada, VOR/DME. The airspace outside the United States is excluded. The airway segment overlying the Siren, WI, VOR/DME between the Farmington, MN, VORTAC and the Duluth, MN, VORTAC is removed. The airspace outside the United States continues to be excluded. The unaffected portions of the existing airway remain as charted.

V-55: V-55 extends between the Dayton, OH, VOR/DME and the intersection of the Green Bay, WI, VORTAC 270° and Oshkosh, WI, VORTAC 339° radials; between the Eau Claire, WI, VORTAC and the Siren, WI, VOR/DME; and between the Park Rapids, MN, VOR/DME and the Bismarck, ND, VOR/DME. The airway segment overlying the Siren, WI, VOR/DME between the Eau Claire, WI, VORTAC and the Siren, WI, VOR/DME is removed. The unaffected portions of the existing airway remain as charted.

V-505: V-505 extends between the Des Moines, IA, VORTAC and the International Falls, MN, VOR/DME. The airway segment overlying the Siren, WI, VOR/DME between the Gopher, MN, VORTAC and the Duluth, MN, VORTAC is removed. Additionally, an editorial correction changes the state abbreviation for the Duluth VORTAC listed in the description from “MI” to “MN”. The unaffected portions of the existing airway remain as charted.

The RNAV route change is outlined below.

T-354: T-354 extends between the Park Rapids, MN, VOR/DME and the Siren, WI, VOR/DME. The Siren, WI (RZN), route point listed as “VOR/DME” is changed to “DME”. The unaffected portions of the existing RNAV route remain as charted.

All radials listed in the route descriptions below are unchanged and stated in True degrees.

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

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a

“significant rule” under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action of amending VOR Federal airways V-13, V-55, and V-505, and RNAV route T-354, due to the planned decommissioning of the VOR portion of the Siren, WI, VOR/DME NAVAID, qualifies for categorical exclusion under the National Environmental Policy Act and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–13 [Amended]

From McAllen, TX; INT McAllen 060° radial and Corpus Christi, TX, 178° radials; Corpus Christi; INT Corpus Christi 039° and

Palacios, TX, 241° radials; Palacios; Humble, TX; Lufkin, TX; Belcher, LA; Texarkana, AR; Rich Mountain, OK; Fort Smith, AR; INT Fort Smith 006° and Razorback, AR, 190° radials; Razorback; Neosho, MO; Butler, MO; Napoleon, MO; Lamoni, IA; Des Moines, IA; Mason City, IA; to Farmington, MN. From Duluth, MN; to Thunder Bay, ON, Canada. The airspace outside the United States is excluded.

* * * * *

V–55 [Amended]

From Dayton, OH; Fort Wayne, IN; Goshen, IN; Gipper, MI; Keeler, MI; Pullman, MI; Muskegon, MI; INT Muskegon 327° and Green Bay, WI, 116° radials; Green Bay; to INT Green Bay 270° and Oshkosh, WI, 339° radials. From Park Rapids, MN; Grand Forks,

ND; INT Grand Forks 239° and Bismarck, ND, 067° radials; to Bismarck.

* * * * *

V–505 [Amended]

From Des Moines, IA; Fort Dodge, IA, excluding the airspace at and above 11,000 feet MSL between 27 miles and 64 miles northwest of Des Moines VOR during the time that the Boone MOA is activated; Mason City, IA; INT Mason City 349° and Gopher, MN, 188° radials; to Gopher. From Duluth, MN; INT Duluth 331° and Hibbing, MN, 120° radials; Hibbing; INT Hibbing 319° and International Falls, MN, 182° radials; to International Falls.

* * * * *

6011 United States Area Navigation Routes

* * * * *

T–354 Park Rapids, MN (PKD) to Siren, WI (RZN) [Amended]

Park Rapids, MN (PKD)	VOR/DME	(Lat. 46°53'53.34" N, long. 095°04'15.21" W)
BRNRD, MN	WP	(Lat. 46°20'53.81" N, long. 094°01'33.54" W)
Siren, WI (RZN)	DME	(Lat. 45°49'13.60" N, long. 092°22'28.26" W)

* * * * *

Issued in Washington, DC, on June 22, 2020.

Scott M. Rosenbloom,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2020–13818 Filed 6–26–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31316 Amdt. No. 3909]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

operations under instrument flight rules at the affected airports.

DATES: This rule is effective June 29, 2020. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 29, 2020.

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

For Examination

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

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

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

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

Availability

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

Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT:

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

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

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff

Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

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

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

The Rule

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

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

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a

“significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC, on June 12, 2020.

Robert C. Carty,

Executive Deputy Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

Effective 16 July 2020

Sitka, AK, Sitka Rocky Gutierrez, RNAV (GPS) RWY 11, Amdt 2
Teller, AK, Teller, RNAV (GPS) RWY 8, Amdt 1
Teller, AK, Teller, RNAV (GPS) RWY 26, Amdt 1
Keystone Heights, FL, Keystone Heights, Takeoff Minimums and Obstacle DP, Orig-A
Brunswick, GA, Brunswick Golden Isles, RNAV (GPS) RWY 25, Amdt 1B
Honolulu, HI, Daniel K Inouye Intl, LOC RWY 8L, Amdt 1B
Honolulu, HI, Daniel K Inouye Intl, RNAV (GPS) Y RWY 8L, Amdt 3A
Chicago, IL, Chicago Midway Intl, RNAV (GPS) Z RWY 22L, Amdt 2
Macomb, IL Macomb Muni, RNAV (GPS) RWY 9, Amdt 1C
Macomb, IL Macomb Muni, RNAV (GPS) RWY 27, Amdt 1B
Hartford, KY, Ohio County, RNAV (GPS) RWY 3, Orig-D
Hartford, KY, Ohio County, RNAV (GPS) RWY 21, Orig-D

Hartford, KY, Ohio County, VOR/DME-A, Orig-A, CANCELLED
Deblois, ME, Deblois Flight Strip, RNAV (GPS)-A, Orig-A
Harlowton, MT, Wheatland County at Harlowton, RNAV (GPS) RWY 27, Orig
Block Island, RI, Block Island State, RNAV (GPS) RWY 10, Orig-D
Block Island, RI, Block Island State, VOR RWY 28, Amdt 5A
Longview, TX, East Texas Rgnl, RNAV (GPS) RWY 13, Amdt 1A
Abingdon, VA, Virginia Highlands, RNAV (GPS) RWY 6, Amdt 1B
Appleton, WI, Appleton Intl, RNAV (GPS) RWY 21, Amdt 2C

[FR Doc. 2020–13890 Filed 6–26–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31317; Amdt. No. 3910]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective June 29, 2020. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 29, 2020.

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

For Examination

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

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

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

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

Availability

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs.

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

incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary.

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

Availability and Summary of Material Incorporated by Reference

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

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

The Rule

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

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

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

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

cause exists for making these SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR part 97

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

Issued in Washington, DC on June 12, 2020.

Robert C. Carty,

Executive Deputy Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

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

* * * *Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
16-Jul-20	CA	Sacramento	Sacramento Intl	0/2704	5/20/20	This NOTAM, published in Docket No. 31315, Amdt No. 3908, TL 20–15, (85 FR 35800; June 12, 2020) is hereby rescinded in its entirety.
16-Jul-20	MN	Park Rapids	Park Rapids Muni-Konshok Field.	0/1758	6/1/20	RNAV (GPS) RWY 13, Amdt 1.
16-Jul-20	GA	Monroe	Monroe-Walton County	0/2642	5/29/20	RNAV (GPS) RWY 3, Amdt 2B.
16-Jul-20	NM	Roswell	Roswell Air Center	0/2895	5/29/20	ILS OR LOC RWY 21, Amdt 18A.
16-Jul-20	NM	Roswell	Roswell Air Center	0/2896	5/29/20	LOC BC RWY 3, Amdt 9C.
16-Jul-20	NM	Roswell	Roswell Air Center	0/2897	5/29/20	RADAR 1, Orig–B.
16-Jul-20	NM	Roswell	Roswell Air Center	0/2898	5/29/20	RNAV (GPS) RWY 3, Orig.
16-Jul-20	NM	Roswell	Roswell Air Center	0/2899	5/29/20	RNAV (GPS) RWY 17, Orig.
16-Jul-20	NM	Roswell	Roswell Air Center	0/2900	5/29/20	RNAV (GPS) RWY 21, Orig.
16-Jul-20	NM	Roswell	Roswell Air Center	0/2901	5/29/20	RNAV (GPS) RWY 35, Orig.
16-Jul-20	NM	Roswell	Roswell Air Center	0/2902	5/29/20	VOR–B, Amdt 1.
16-Jul-20	GA	Atlanta	Atlanta Rgnl Falcon Field	0/4193	6/2/20	ILS OR LOC RWY 31, Amdt 2B.
16-Jul-20	PA	Danville	Danville	0/4878	6/1/20	VOR–A, Orig.
16-Jul-20	PA	Danville	Danville	0/4879	6/1/20	RNAV (GPS) RWY 27, Orig–B.
16-Jul-20	PA	Danville	Danville	0/4880	6/1/20	RNAV (GPS) RWY 9, Orig–B.
16-Jul-20	CA	Sacramento	Sacramento Intl	0/5322	6/3/20	ILS OR LOC RWY 17R, ILS RWY 17R (SA CAT I), ILS RWY 17R (CAT II–III), Amdt 16C.
16-Jul-20	NC	Statesville	Statesville Rgnl	0/5727	6/3/20	RNAV (GPS) RWY 10, Amdt 1A.
16-Jul-20	IL	Chicago	Chicago Midway Intl	0/6470	6/4/20	RNAV (RNP) X RWY 22L, Orig.

[FR Doc. 2020–13891 Filed 6–26–20; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 436

Disclosure Requirements and Prohibitions Concerning Franchising

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) announces revised monetary thresholds for three exemptions from the Franchise Rule. The FTC is required to adjust the size of the monetary thresholds every fourth year based upon changes in the Consumer Price Index for All Urban Consumers (“CPI–U”) published by the Department of Labor.

DATES: This final rule is effective on July 1, 2020.

FOR FURTHER INFORMATION CONTACT:

Christine M. Todaro, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580; phone number: (202–326–3711), email address: ctodaro@ftc.gov.

SUPPLEMENTARY INFORMATION: The FTC’s Trade Regulation Rule entitled “Disclosure Requirements and Prohibitions Concerning Franchising” (Franchise Rule or Rule)¹ provides three exemptions based on a monetary threshold: The “minimum payment exemption,”² the “large franchise investment exemption,”³ and the “large franchisee exemption.”⁴ The Rule requires the Commission to “adjust the size of the monetary thresholds every fourth year based upon the . . . Consumer Price Index for all urban consumers [CPI–U] published by the Department of Labor.”⁵ This requirement, added by the 2007

amendments to the Rule, took effect on July 1, 2007, so that franchisors would have a one-year phase-in period within which to comply with the amended Rule’s revised disclosure requirements before the July 1, 2008, final compliance deadline.⁶

As required by the Rule, the Commission previously revised the three monetary thresholds to reflect inflation in the CPI–U in 2012 and 2016.⁷ The Commission bases the exemption monetary thresholds that will take effect on July 1, 2020, on the increase in the CPI–U between 2007 and 2019. During this period, the annual average value of the Consumer Price Index for all urban consumers and all items increased by 23.3%—from an index value of 207.342 to a value of 255.657.⁸ Applying the percentage increase to the three monetary thresholds increases the thresholds as follows:

¹ 16 CFR part 436.

² 16 CFR 436.8(a)(1).

³ 16 CFR 436.8(a)(5)(i).

⁴ 16 CFR 436.8(a)(5)(ii).

⁵ 16 CFR 436.8(b).

⁶ 72 FR 15444 (Mar. 30, 2007).

⁷ 77 FR 36149, 36150 (June 18, 2012); 81 FR 31500 (May 19, 2016).

⁸ Bureau of Labor Statistics, Consumer Price Index: Historical Consumer Price Index for All Urban Consumers (CPI–U), available at <https://www.bls.gov/cpi/tables/supplemental-files/historical-cpi-u-201912.pdf>.

Exemption	2007 Base	Adjusted 2020 Threshold
Minimum Payment	\$500	⁹ \$615
Large Franchise Investment	1,000,000	1,233,000
Large franchisee	5,000,000	6,165,000

Because the calculation of these thresholds is purely ministerial in nature and implements the Rule's mandatory adjustment mechanism, these adjustments are exempt from the rulemaking procedures specified in section 18 of the FTC Act.¹⁰ In addition, the Commission has determined that notice and comment are unnecessary under the Administrative Procedure Act ("APA") for the same reason. The Commission, therefore, has omitted notice and comment for good cause as provided by section 553(b)(B) of the APA.¹¹ For this reason, the requirements of the Regulatory Flexibility Act also do not apply.¹² Accordingly, the adjusted thresholds will take effect on July 1, 2020.

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a "major rule," as defined by 5 U.S.C. 804(2).

List of Subjects in 16 CFR Part 436

Advertising, Business and industry, Franchising, Trade practices.

For the reasons set out in the preamble, the Federal Trade Commission amends 16 CFR part 436 as follows:

PART 436—DISCLOSURE REQUIREMENTS AND PROHIBITIONS CONCERNING FRANCHISING

■ 1. The authority citation for part 436 continues to read as follows:

Authority: 15 U.S.C. 41–58.

§ 436.8 [Amended]

■ 2. Amend § 436.8 as follows:

- a. In paragraph (a)(1), remove "\$570" and, in its place, add "\$615";
- b. In paragraph (a)(5)(i), remove both references to "\$1,143,000" and, in their place, add "\$1,233,000"; and

⁹ The Commission has rounded this figure from \$616.50 to \$615 to facilitate compliance and for clarity.

¹⁰ See 15 U.S.C. 57a(d)(2)(B); 16 CFR 1.15(b) (providing that non-substantive amendments to trade regulation rules are exempt from the rulemaking procedures of Section 18 of the FTC Act).

¹¹ 5 U.S.C. 553(b)(B) (providing that "good cause" exists to forego notice and comment when public comment is unnecessary).

¹² 5 U.S.C. 603 and 604 (no regulatory flexibility analyses required where the APA does not require public comment).

■ c. In paragraph (a)(5)(ii), remove "\$5,715,500" and, in its place, add "\$6,165,000".

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2020–12617 Filed 6–26–20; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2020–0260]

Special Local Regulation; Dutch Shoe Marathon; San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Dutch Shoe Marathon special local regulation on the waters of San Diego Bay, California on July 17, 2020. These special local regulations are necessary to provide for the safety of the participants, crew, spectators, sponsor vessels, and general users of the waterway. During the enforcement period, persons and vessels are prohibited from anchoring, blocking, loitering, or impeding within this regulated area unless authorized by the Captain of the Port, or his designated representative.

DATES: The regulations in 33 CFR 100.1101 will be enforced for the Dutch Shoe Marathon regulated area listed in item 4 in Table 1 to § 100.1101 from noon to 4 p.m. on July 17, 2020.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Lieutenant Briana Biagas, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278–7656, email D11MarineEventsSD@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulations in 33 CFR 100.1101 Table 1, Item 4 of that section for the Dutch Shoe Marathon in San Diego Bay, CA from noon to 4 p.m. on July 17, 2020. This action is being taken to provide for the

safety of life on navigable waterways during this event. Our regulation for marine events within the Eleventh Coast Guard District, § 100.1101, specifies the location of the regulated area for the Dutch Shoe Marathon which encompasses the waters of San Diego Bay, CA, from Shelter Island to Glorietta Bay. Under the provisions of § 100.1101, persons and vessels are prohibited from anchoring, blocking, loitering, or impeding within this regulated area unless authorized by the Captain of the Port, or his designated representative. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners, Safety Marine Information Broadcast, and local advertising by the event sponsor.

If the Captain of the Port Sector San Diego or his designated representative determines that the regulated area need not be enforced for the full duration stated on this document, he or she may use a marine information broadcast or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

Dated: June 9, 2020.

T.J. Barelli,

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

[FR Doc. 2020–12864 Filed 6–26–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2020–0370]

RIN 1625–AA00

Safety Zone; Fischer Wedding Fireworks Lake Charlevoix, Boyne City, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 420-ft radius of a fireworks display. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sault Sainte Marie.

DATES: This rule is effective from 10 p.m. until 11:59 p.m., July 2, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2020-0370 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Sean V. Murphy, U.S. Coast Guard Sector Sault Sainte Marie Waterways Management, U.S. Coast Guard; telephone 906-635-3223, email ssmprevention@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. This safety zone is needed to be established by July 2, 2020 in order to protect the public from the dangers associated with a fireworks display.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because action is needed to establish a safety zone in order to protect the public

from the hazards associated with the fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sault Sainte Marie (COTP) has determined that potential hazards associated with a fireworks display on July 2, 2020 will be a safety concern for anyone within a 420-foot radius of the navigable waters surrounding the fireworks launching location. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during the fireworks display.

IV. Discussion of the Rule

This rule establishes a safety zone from 10 p.m. until 11:59 p.m. on July 2, 2020. The safety zone will cover all navigable waters within 420 feet of a fireworks display in Lake Charlevoix near Boyne City, MI. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters during the fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone which would impact a small designated area of Lake

Charlevoix. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132,

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting less than 2 hours that will prohibit entry within 420 feet of a fireworks display in Lake Charlevoix. It is categorically excluded from further review under paragraph L[60(a)] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters.

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

- 2. Add § 165.T09–0370 to read as follows:

§ 165.T09–0370 Fischer Wedding Fireworks Lake Charlevoix, Boyne City, MI.

(a) *Location.* The following area is a safety zone: All navigable water within 420 feet of the fireworks launching location in position 45°16′35.80″ N, 85°06′11.00″ W (NAD 83)

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sault Sainte Marie (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within the safety zone described in paragraph (a) is prohibited unless authorized by the Captain of the Port, Sault Sainte Marie or his designated representative.

(2) Before a vessel operator may enter or operate within the safety zone, they must obtain permission from the Captain of the Port, Sault Sainte Marie, or his designated representative via VHF Channel 16 or telephone at (906) 635–3233. Vessel operators given permission to enter or operate in the safety zone must comply with all orders given to them by the Captain of the Port, Sault Sainte Marie or his designated representative.

(d) *Enforcement period.* This section will be enforced from 10 p.m. through 11:59 p.m. on July 2, 2020.

Dated: June 24, 2020.

A.E. Florentino,

Commander, U.S. Coast Guard, Acting Captain of the Port Sault Sainte Marie.

[FR Doc. 2020–14025 Filed 6–26–20; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 43

[WC Docket No. 11–10 and 19–195, FCC 19–79; FRS 16815]

Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection requirements associated with the Local Telephone Competition and Broadband Reporting, Report and Order, FCC Form 477. This document is consistent with the Report and Order, which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of the information collection requirements. **DATES:** Paragraphs 44 through 51 of the Report and Order, published at 84 FR 43705, August 22, 2019, are effective on June 29, 2020.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Cathy Williams, *Cathy.Williams@fcc.gov*, (202) 418–2918.

SUPPLEMENTARY INFORMATION: This document announces that, on May 28, 2020, OMB approved the information collection requirements contained in the Commission's Report and Order, FCC 19–79, published at 84 FR 43705, August 22, 2019. The OMB Control Numbers are 3060–0816. The Commission publishes this document as an announcement of the effective date of the information collection requirements.

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on May 28, 2020, for the information collection requirements contained in the Commission's rules.

No person shall be subject to any penalty for failing to comply with a

collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Numbers are 3060–0816.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0816.

OMB Approval Date: May 28, 2020.

OMB Expiration Date: March 31, 2023.

Title: Local Telephone Competition and Broadband Reporting, Report and Order, FCC Form 477 (WC Docket No. 19–195, WC Docket No. 11–10, FCC 19–79).

Form Number: FCC Form 477.

Respondents: Business or other non-profit or for-profit entities; not-for-profit institutions; and state, local, or tribal government.

Number of Respondents: 2,515 respondents, 5,030 responses.

Estimated Time per Response: 348 hours.

Frequency of Response: Semi-annual reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 4(i), 201, 218–220, 251–252, 271, 303(r), 332 and 403 of the Communications Act of 1934, as amended, and 47 U.S.C. 1302.

Total Annual Burden: Approximately 1,750,440 hours (for all respondents).

Total Annual Cost: No cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission will no longer treat as confidential service providers' minimum advertised or expected speed data for mobile broadband services. Thus, provider-specific coverage data will be publicly released for all subsequent Form 477 filings. This action is necessary to ensure that consumers can easily use the information that is disclosed to the public, including minimum advertised or expected speed data, because such information is only beneficial if consumers know where service coverage is available.

Needs and Uses: On August 1, 2019, the Commission adopted a Report and Order, FCC 19–79, in WC Docket Nos. 19–195 and 11–10. The Order makes targeted changes to the existing Form 477 data collection to reduce reporting burdens for all filers and incorporate new technologies. The Order adopts the

5G–NR (New Radio) technology standards developed by the 3rd Generation Partnership Project (3GPP) with Release 15 and requires providers to submit 5G deployment data that meet the specifications of Release 15 (or any successor release that may be adopted by the Commission's Bureaus). These changes are necessary because the deployment data collected on Form 477 are no longer sufficient for targeting universal service funds. The actions to improve the Form 477 data collection will also increase the usefulness of the information to the Commission, Congress, the industry, and the public. The Order reduces the burden on broadband providers by removing the requirement that facilities-based providers submit separate coverage maps depicting their broadband network coverage areas for each transmission technology and each frequency band. It also modifies the requirement that mobile broadband providers report coverage information for each technology deployed in their networks by reducing the number of categories from nine to four. The Order also eliminates the requirement that facilities-based providers submit a list of census tracts in which the provider advertises its mobile wireless broadband service and in which the service is available to actual and potential subscribers. Finally, the Order removes the requirement that fixed providers offering business/enterprise/government services to report the maximum downstream and upstream contractual or guaranteed data throughput rate (committed information rate) available in each reported census block. As adopted by the Commission, the Order required mobile providers to submit broadband and voice subscriber data at the census-tract level based on the subscriber's place of primary use for postpaid subscribers and based on the subscriber's telephone number for prepaid and resold subscribers. These rules will not become effective as a result of the Broadband DATA Act (Broadband Deployment Accuracy and Technology Availability Act, Public Law 116–130, 134 Stat. 228 (2020) (codified at 47 U.S.C. 641–646)). The Broadband DATA Act directs the Commission to “continue to collect and publicly report subscription data that the Commission collected through the Form 477 broadband deployment service availability process, as in effect on July 1, 2019.” 47 U.S.C. 642(b)(6)(B), which became law on March 23, 2020.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2020–12135 Filed 6–26–20; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 200623–0167]

RIN 0648–BJ61

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Revised 2020 and Projected 2021 Specifications and Recreational Management Measures

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

ACTION: Final rule.

SUMMARY: NMFS issues revised specifications and recreational management measures for the 2020 Atlantic bluefish fishery and projected specifications for fishing year 2021. This action is necessary to establish allowable harvest levels and other management measures to prevent overfishing, consistent with the most recent scientific information. This rule informs the public of these revised fishery specifications and management measures for the 2020 fishing year.

DATES: Effective June 29, 2020.

ADDRESSES: The Mid-Atlantic Fishery Management Council prepared an environmental assessment (EA) for these specifications that describes the action and other considered alternatives. The EA provides an analysis of the biological, economic, and social impacts of the preferred measures and other considered alternatives; a Regulatory Impact Review; and economic analysis. Copies of these specifications, including the EA, Regulatory Flexibility Act Analyses, and other supporting documents for the action are available upon request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N State Street, Dover, DE 19901. These documents are also accessible via the internet at <https://www.mafmc.org/supporting-documents>.

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

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission jointly manage the Atlantic Bluefish Fishery Management Plan (FMP). The FMP requires the specification of the acceptable biological catch (ABC), annual catch limit (ACL), annual catch targets (ACT), commercial quota, recreational harvest limit, and other management measures for up to three years at a time. This action implements specifications and recreational management measures for the 2020 bluefish fishery, and announces projected specifications for 2021.

The most recent 2019 bluefish operational assessment incorporated revised Marine Recreational Information Program (MRIP) estimates into its analyses and reference points, and determined that the bluefish stock is now overfished but not subject to overfishing. The Council is developing a rebuilding plan to be implemented for the 2022 fishing year. Interim specifications status quo to 2019 were implemented on October 9, 2019 (84 FR 54041) to be in place for the beginning

of the 2020 fishing year until new measures could be developed incorporating the results of the operational assessment. However, those interim specifications are substantially more liberal than what the best available science indicates is necessary to constrain catch and prevent overfishing in 2020. Interim recreational management measures were implemented on February 28, 2020 (85 FR 11863), which reduced the recreational bag limit for the fishery in an effort to prevent overfishing in the early months of the fishing year. This final action is necessary to implement these recreational measures beyond the temporary period of the interim rule that expires in August 2020. This action revises the 2020 specifications to reflect the assessment results and project similar specifications for 2021, as well as implements recreational management measures to constrain catch to these new limits on a permanent basis.

The proposed rule for this action published in the **Federal Register** on May 11, 2020 (85 FR 27703), and comments were accepted through May 26, 2020. NMFS received nine

comments from the public, and no changes were made to the final rule as a result of those comments (see Comments and Responses for additional detail). Additional background information regarding the development of these specifications was provided in the proposed rule and is not repeated here.

Final Specifications

This action implements the final revised 2020 and projected 2021 bluefish catch specifications, as well as the revised recreational management measures to constrain harvest the new limits, as outlined in the proposed rule. These specifications substantially reduce both the commercial quota and recreational harvest limit (RHL) in response to the results of the 2019 operational assessment and to prevent overfishing on the overfished bluefish stock. There is no transfer of quota from the recreational to commercial sector because the recreational fishery is expected to achieve the full harvest limit. A comparison of the interim 2020 and the revised 2020–21 specifications is shown below in Table 1.

TABLE 1—COMPARISON OF INTERIM 2020 AND REVISED 2020–21 BLUEFISH SPECIFICATIONS *

	Interim 2020		Revised 2020–2021		Percent change
	Million lb	Metric tons	Million lb	Metric tons	
ABC = ACL	21.81	9,895	16.28	7,385	–25
Commercial ACT	3.71	1,682	2.77	1,255	–25
Recreational ACT	18.11	8,213	13.51	6,130	–25
Commercial Total Allowable Landings (TAL)	3.71	1,682	2.77	1,255	–25
Recreational TAL	15.62	7,085	9.48	4,301	–39
Sector Transfer	4.00	1,814	0.00	0	–100
Commercial Quota	7.71	3,497	2.77	1,255	–64
RHL	11.62	5,271	9.48	4,301	–18

* Specifications are derived in metric tons (mt). When values are converted to millions of pounds the numbers may slightly shift due to rounding. The conversion factor used is 1 mt = 2,204.6226 pounds.

Table 2 provides the commercial state allocations based on the final coastwide commercial quota for 2020 and 2021,

and the allocation percentages defined in the FMP. No states exceeded their allocated quota in 2019; therefore, no

commercial fishery accountability measures are necessary for the 2020 fishing year.

TABLE 2—2020–21 BLUEFISH STATE COMMERCIAL QUOTA ALLOCATIONS

State	Percent share	Quota (lb)	Quota (kg)
Maine	0.67	18,496	8,388
New Hampshire	0.41	11,468	5,201
Massachusetts	6.72	185,838	84,280
Rhode Island	6.81	188,366	85,427
Connecticut	1.27	35,036	15,889
New York	10.39	287,335	130,311
New Jersey	14.82	409,934	185,911
Delaware	1.88	51,966	23,567
Maryland	3.00	83,054	37,666
Virginia	11.88	328,682	149,062
North Carolina	32.06	887,058	402,294
South Carolina	0.04	974	442
Georgia	0.01	263	119

TABLE 2—2020–21 BLUEFISH STATE COMMERCIAL QUOTA ALLOCATIONS—Continued

State	Percent share	Quota (lb)	Quota (kg)
Florida	10.06	278,332	126,228
Total	100.00	2,766,801	1,254,785

As previously mentioned, changes to the recreational management measures were already made through a temporary interim action implemented by NMFS using Magnuson-Stevens Act authority to prevent overfishing (section 305(c)). This action permanently implements the change in the daily federal recreational bag limit. The 2020 measures reduce the limit from 15 fish for all anglers to 3 fish per person for private anglers and to 5 fish per person for for-hire (charter/party) vessels. All other federal management measures, including commercial measures, and recreational season (open all year) and minimum fish size (none), remain unchanged.

The Council will review the specifications for fishing year 2021 to determine if any changes need to be made prior to their final implementation. Changes may occur if 2020 quota overages trigger accountability measures, or if new stock information results in changes to the ABC recommendations. NMFS will publish a notice prior to or early in 2021 to finalize the projected measures or announce any necessary changes.

Comments and Responses

The public comment period for the proposed rule ended on May 26, 2020, and NMFS received nine comments from the public. Four commenters supported this action and encouraged restriction in the bluefish fishery, mentioning that they have noticed a decline in the available bluefish resource in recent years. However, one of these commenters did note concerns about the implications of implementing different recreational measures for private anglers and for-hire vessels, especially when the stock is overfished. NMFS understands these concerns, and these issues are being discussed as part of ongoing agency, Council, and Commission recreational reform initiative, as well as under Amendment 7 to the FMP and the rebuilding plan, currently in various stages of development.

Two commenters suggested that this action's catch reduction is too drastic and should be reconsidered, and another commenter suggested that a slot limit or size limits be used to restrict

recreational catch instead of only a substantially reduced bag limit. The Council and Commission explored other methods to reduce catch, such as size limits or phased reductions, during development of these measures; however, these measures were not adopted. This action achieves the necessary reduction in catch while having the smallest negative impact on all stakeholders coastwide.

A comment from a fishing organization in Florida expressed concerns about the accuracy of the data used in the latest assessment, especially with regards to certain states. This commenter alleged that inaccuracies could be found in both the recreational and commercial fishery data, and such drastic reductions should not be made based on an assessment that includes flawed data. The revised MRIP and commercial data used in the 2019 operational assessment are the best scientific data available, and the appropriate model from which to base these management decisions. MRIP is the only program to provide consistent, comprehensive recreational catch and effort data for the entire Atlantic coast to cover the range of the bluefish fishery, and the recent revisions incorporating the Fishing Effort Survey improved the accuracy of the data; reducing bias and increasing efficiency. In terms of commercial fishery data and quota allocation, these specifications allocate commercial quota based on the percentage share determined by Amendment 1 to the FMP (65 FR 45844; August 25, 2000). Revision of these allocations is being discussed under Bluefish Amendment 7, but this is a separate action and does not need to be addressed with these specifications.

The final comment was not responsive to the action or bluefish fishery, and as such, it does not warrant a response. No changes were made to the proposed rule as a result of these comments.

Changes From the Proposed Rule

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

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Administrator, Greater Atlantic Region, has determined that this final rule is necessary for the conservation and management of the Atlantic bluefish fishery, and that it is consistent with the Atlantic Bluefish FMP, other provisions of the Magnuson-Stevens Act, and other applicable laws.

The Assistant Administrator for Fisheries, NOAA, finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date for this rule, to ensure that these final specifications are in place as soon as possible to prevent overfishing in the 2020 fishing year, which began on January 1, 2020. This action establishes final, revised specifications (*i.e.*, annual catch limits) and recreational daily bag limits for the 2020 bluefish fishery that began on January 1. A delay in effectiveness well into the 2020 fishing year would be contrary to the public interest, as it could create confusion in both the commercial and recreational fishery sectors. Additionally, it could compromise the effectiveness of the new specifications to prevent overfishing.

This rule is being issued at the earliest possible date. The proposed rule and public comment period were delayed due to the timing of the operational stock assessment and the time necessary for the Council and Commission to develop new specifications based on this updated information. The proposed rule published on May 11, 2020, with a 15-day comment period ending May 26, 2020. A 30-day delay in effectiveness would postpone implementation of the revised specifications and recreational bag limit well into the 2020 fishing year and after the start of the recreational season for most of the coast, which is contrary to the public interest.

Furthermore, it is important to implement the lower catch limits as soon as possible to minimize the potential for overfishing. Although interim specifications are in place, the specifications in this rule provide a substantial reduction in catch limits based on the most recent stock assessment, which also determined the bluefish stock to be overfished. Further

harvest under old catch limits could harm the resource and subject it to a greater risk of overfishing. This could also have further negative impact on industry, as overharvest could result in even more restrictive catch limits in the near future.

Finally, regulated parties do not require any additional time to come into compliance with this rule, and thus, a 30-day delay does not provide any benefit.

Unlike actions that require an adjustment period to comply with new rules, bluefish fishery participants will not have to purchase new equipment or otherwise expend time or money to comply with these status quo management measures. Rather, complying with this final rule simply means adhering to the catch limits and management measures set for the bluefish fishing year. Fishery stakeholders have also been involved in the development of this action and are anticipating this rule. Therefore, there would be no benefit to delaying the implementation of these specifications.

For these reasons, NMFS finds that a 30-day delay in effectiveness would be contrary to the public interest, and therefore waives the requirement consistent with 5 U.S.C. 553(d)(3). As a result, there is good cause to implement this action on June 29, 2020.

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

This final rule is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

This final rule does not duplicate, conflict, or overlap with any existing Federal rules.

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

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

Final Regulatory Flexibility Analysis

A final regulatory flexibility analysis (FRFA) was prepared pursuant to 5 U.S.C. 604(a), and is included in this final rule. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, and NMFS responses to those comments, and a summary of the analyses completed to support the action. A public copy of the EA containing the IRFA is available from the Mid-Atlantic Fishery

Management Council (see **ADDRESSES**). The preamble to the proposed rule included a detailed summary of the analyses contained in the IRFA, and that discussion is not repeated here.

A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

NMFS did not receive any comments in response to the IRFA or regulatory flexibility analysis (RFA) process. Refer to the "Comments and Responses" section of this rule's preamble for more detail on the public comments that were received. No changes to the proposed rule were made as a result of public comment.

Description and Estimate of Number of Small Entities to Which the Rule Would Apply

This final rule affects small entities engaged in commercial fishing operations in the Atlantic bluefish fishery (those with commercial bluefish permits), and those with Federal party/charter recreational permits for bluefish. Private recreational anglers are not considered "entities" under the RFA, thus economic impacts on private anglers are not considered here. For the purposes of the RFA analysis, the ownership entities (or firms), not the individual vessels, are considered to be the regulated entities. Ownership entities are defined as those entities or firms with common ownership personnel as listed on the permit application. Because of this, some vessels with bluefish permits may be considered to be part of the same firm because they may have the same owners. To identify these small and large firms, vessel ownership data from the permit database were grouped according to common owners and sorted by size. In terms of RFA, a business primarily engaged in commercial fishing is classified as a small business if it has combined annual receipts not in excess of \$11 million, for all its affiliated operations worldwide. A business primarily engaged in for-hire (party/charter) fishing is classified as small business if it has combined annual receipts not in excess of \$8 million.

In the commercial fishery, 735 firms reported commercial bluefish revenue from 2016–2018. According to the vessel ownership database, based on 2018 revenues, 728 of those 735 total firms are categorized as small businesses, and 7 are categorized as large businesses. For the recreational

for-hire (party/charter) fishery, 389 affiliate firms reported revenue from recreational fishing from 2016–2018. All 389 of those firms are categorized as small businesses based on their 2018 revenues. It is not possible to derive what proportion of the overall revenues for these for-hire firms came from fishing activities for an individual species. Nevertheless, given the popularity of bluefish as a recreational species along the Atlantic seaboard, revenues generated from this species are likely somewhat important for many of these firms at certain times of the year. The 3-year average (2016–2018) combined gross receipts (all for-hire fishing activity combined) for these small entities was \$52,156,152, ranging from less than \$10,000 for 119 entities (lowest value \$124) to over \$1,000,000 for 8 entities (highest value \$2.9 million).

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

There are no new reporting, recordkeeping, or other compliance requirements are included in this final rule.

Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes

Specification of catch limits and management measures is constrained by the conservation objectives of the FMP and the Magnuson-Stevens Act. This action revises 2020 catch limits and recreational management measures, and projects 2021 specifications for the Atlantic bluefish fishery based on the most recent operational stock assessment and the application of the Council's Risk Policy to prevent overfishing. Because the bluefish stock declared overfished by the most recent assessment conducted in 2019 and is at high risk for overfishing, the Council and the agency are required to take steps to protect the stock. NMFS is constrained in the specifications process in that the agency can approve, disapprove, partially approve, or in very limited circumstances substitute measures to end overfishing and rebuild stocks if Council-recommended measures will not do so. Because of this, there are limited options to minimize potential impacts on small entities.

Revenues in 2020 and 2021 are uncertain and will depend not only on the quota, but also on availability of bluefish, market factors (e.g., price of bluefish compared to alternative species), weather, and other factors.

This rule decreases the coastwide commercial quota by 64 percent, and the recreational harvest limit by 18 percent. Although these are substantial reductions, especially for the commercial fishery due to the lack of quota transfer from the recreational sector, commercial bluefish entities are unlikely to be substantially negatively impacted. Preliminary reports indicate that the commercial bluefish fishery only landed 2.61 million lb (1,185 mt) in 2019, which is below the revised commercial quota of 2.77 million lb (1,255 mt). Therefore, the commercial fishery overall is not expected to experience substantial negative impacts from the quota reduction. However, commercial entities in certain states that more actively target bluefish may still be affected as the allocated state quotas proportionately decrease. Any quota losses should be able to be made up in state-to-state transfers. Compared to the average receipts for 2016–2018, the revised 2020–2021 commercial quotas are expected to result in an overall revenue reduction of 0.38 percent for small entities.

In the recreational fishery (for-hire or party/charter entities), impacts to entities are more likely to be driven by the change in recreational management measures than the reduction in RHL. In the development of the proposed measures, a mode-specific bag limit was chosen specifically to mitigate the negative impacts on for-hire entities fishing for bluefish. To achieve the required reduction in the RHL, these measures implement a reduction in the daily recreational bag limit from 15 to 3 fish per person for private anglers and to 5 fish per person for for-hire (charter/party) vessels. Because for-hire vessels are responsible for less than 5 percent of overall bluefish recreational catch, but the bag limit can affect demand for mixed-catch trips and general business revenues, this action allows the for-hire mode two additional fish per-person than the initially determined 3-fish bag limit for the entire recreational fishery.

NMFS does not anticipate significant economic impacts on small entities as a result of implementing the reduced quotas in this action. While there is a

substantial reduction in the commercial quota, analyses indicate that coastwide bluefish landings have been less than the approved limit in recent years. It is unlikely that potential revenue losses would be directly affected by these quota reductions. The recreational fishery has a relatively smaller reduction to the RHL and loses no quota through a sector transfer. Also, the choice to reduce harvest through only bag limit rather than adjusting other management measures such as size limit or season enables recreational trips to continue. The choice to allow a higher bag limit (5 fish) to the for-hire sector was also a step taken to lessen any negative impact on small entities.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as “small entity compliance guides.” The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as small entity compliance guide was prepared and will be sent to all holders of Federal permits issued for the bluefish fishery. In addition, copies of this final rule and guide (*i.e.*, permit holder letter) are available from NMFS at the following website: <https://www.fisheries.noaa.gov/species/bluefish#management>.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 23, 2020.

Samuel D. Rauch III,

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

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

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

■ 2. In § 648.164,

■ a. Lift the suspension on paragraphs (a) and (b);

■ b. Revise paragraphs (a) and (b); and

■ c. Remove paragraphs (c) and (d).

The revisions read as follows:

§ 648.164 Bluefish possession restrictions.

(a) *Recreational possession limits.* Any person fishing from a vessel in the EEZ that is not fishing under a bluefish commercial permit shall observe the applicable recreational possession limit. The owner, operator, and crew of a charter or party boat issued a bluefish commercial permit are not subject to the recreational possession limit when not carrying passengers for hire and when the crew size does not exceed five for a party boat and three for a charter boat.

(1) *Private recreational vessels.* Any person fishing from a vessel that is not fishing under a bluefish commercial or charter/party vessel permit issued pursuant to § 648.4(a)(8), may land up to three bluefish per day.

(2) *For-hire vessels.* Anglers fishing onboard a for-hire vessel under a bluefish charter/party vessel permit issued pursuant to § 648.4(a)(8), may land up to five bluefish per person per day.

(b) *Pooling Catch.* Bluefish harvested by vessels subject to the possession limit with more than one person on board may be pooled in one or more containers. Compliance with the daily possession limit will be determined by dividing the number of bluefish on board by the number of persons on board, other than the captain and the crew. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner and operator of the vessel.

[FR Doc. 2020–13867 Filed 6–26–20; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 85, No. 125

Monday, June 29, 2020

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2020-0567; Airspace Docket No. 20-AAL-15]

RIN 2120-AA66

Proposed Amendment to Federal Airways Amber 15 (A-15), V-444, J-502, and J-511; Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Federal airways A-15, V-444, J-502, and J-511 in Alaska. The modifications are necessary due to the decommissioning of the Burwash Non-Directional Beacon (NDB) in Yukon Territory, Canada, which provided navigation guidance for portions of the affected routes. The Burwash NDB was decommissioned effective March 26, 2020 due to ongoing maintenance problems and logistic issues.

DATES: Comments must be received on or before August 13, 2020.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590; telephone: 1(800) 647-5527, or (202) 366-9826. You must identify FAA Docket No. FAA-2020-0567; Airspace Docket No. 20-AAL-15 at the beginning of your comments. You may also submit comments through the internet at <https://www.regulations.gov>.

FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at https://www.faa.gov/air_traffic/publications/. For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington,

DC 20591; telephone: (202) 267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11D at NARA, email: fedreg.legal@nara.gov or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA-2020-0567; Airspace Docket No. 20-AAL-15) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit

comments through the internet at <https://www.regulations.gov>.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA-2020-0567; Airspace Docket No. 20-AAL-15." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the office of the Western Service Center, Operations Support Group, Federal Aviation Administration, 2200 South 216th St., Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

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

air traffic service routes, and reporting points.

Background

Due to the decommissioning of the Burwash, YT, Canada, NDB it requires amendment to Federal airways A-15, V-444, and jet routes J-502 and J-511 to remove associated airway segments.

Colored Federal airway A-15 is currently published from the Ethelda, BC, Canada, NDB to the Delta Junction, AK, NDB and will require deletion of the segment between the Haines, AK, NDB and the Beaver Creek, YT, NDB. The requested amended route will stop at the US/Canadian border and resume at Beaver Creek YT, NDB.

Federal airway V-444 navigates from Barrow, AK, to the Burwash, YT, NDB, and the portion of the airway from the intersection of Northway 120° (M) 138° (T) and Gulkana 062° (M) 079° (T) to the Burwash, YT, NDB will require deletion.

Federal airway J-502 currently navigates from Seattle, WA to Kotzebue, AK and will require amendment to remove the segment from an intersection at the US/Canadian border north of the Sister Island, AK, VORTAC to an intersection at the US/Canadian border southeast of Northway, AK, VORTAC.

Federal airway J-511 currently navigates from Dillingham, AK, to Burwash Landing, YT. The segment of the route between Burwash Landing, YT, Canada and the intersection of Gulkana 078° radial; and Northway 137° will require deletion. The airway will terminate at the US/Canadian boundary.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to amend Federal airways A-15, V-444, J-502, and J-511. The proposed Federal airway actions are described below.

A-15: A-15 currently extends between the Ethelda, BC, Canada, NDB and the Delta Junction, AK, NDB. This action proposes to remove the segment between the Intersection of Sisters Island 311° (M), 331° (T), and Whitehorse 189° (M), 207° (T) radials and Beaver Creek, YT, NDB. The unaffected portions of the existing route would remain as charted.

V-444: V-444 currently extends between the Barrow, AK, NDB and the Burwash, YT, NDB. This action proposes to remove the segment between the intersection of the Northway 120° (M), 138° (T), and Gulkana 062° (M), 079° (T) and Burwash, YT, NDB. The unaffected portions of the existing route would

remain as charted. The portion within Canada is excluded.

J-502: J-502 currently extends between Seattle, WA and Kotzebue, AK. The FAA proposes to remove the segment between the Intersection of Sisters Island 311° (M), 331° (T), and Whitehorse 189° (M), 207° (T) radials; and the Intersection of Northway 120° (M), 138° (T), and Gulkana 062° (M), 079° (T) radials. The unaffected portions of the existing route would remain as charted.

J-511: J-511 currently extends between Dillingham, AK and Burwash Landing, YT, Canada, NDB. The FAA proposes to remove the segment between Gulkana, AK; and the intersection of Gulkana 078° (M), 102° (T) radial; and Northway 137° (M), 161° (T) radial. The unaffected portions of the existing route would remain as charted.

Colored and Alaskan VOR Federal airways are published in paragraphs 6009 and 6010(b) and Jet routes are published in paragraph 2004, of FAA Order 7400.11D dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR part 71.1. The Federal airways listed in this document will be subsequently published in the Order.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, “Environmental Impacts: Policies and

Procedures” prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6009 Colored Federal Airways

* * * * *

A-15 [Amended]

From Ethelda, BC, Canada, NDB; Nichols, AK, NDB; Sumner Strait, AK, NDB; Coghlan Island, AK, NDB; Haines, AK, NDB; Intersection of Sisters Island 311° (M), 331° (T), and Whitehorse 189° (M), 207° (T) radials; and then; Beaver Creek, YT, Canada, NDB; Nabesna, AK, NDB; to Delta Junction, AK, NDB. The airspace within Canada is excluded.

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Paragraph 6010(b) Alaskan VOR Federal Airways.

* * * * *

V-444 [Amended]

From Barrow, AK, Evansville, AK, NDB; Bettles, AK; Fairbanks, AK; Big Delta, AK; Northway, AK; intersection of the Northway 120° (M), 138° (T), and Gulkana 062° (M), 079° (T) radials.

* * * * *

Paragraph 2004 Jet Routes.

* * * * *

J-502 [Amended]

From Seattle, WA; via Victoria, BC, Canada; Port Hardy, BC, Canada; Annette Island, AK; Level Island, AK; Sisters Island, AK; Intersection of Sisters Island 311° (M), 331° (T), and Whitehorse 189° (M), 207° (T) radials. From the Intersection of Northway 120° (M), 138° (T), and Gulkana 062° (M), 079° (T) radials; Northway, AK; Fairbanks, AK; to Kotzebue, AK, excluding the airspace within Canada.

* * * * *

J-511 [Amended]

From Dillingham, AK; via INT Dillingham 059° and Anchorage, AK 247° radials, to Anchorage, AK; Gulkana, AK; to Intersection of Gulkana 078° (M), 102° (T) radial; and Northway 137° (M), 161° (T) radial.

* * * * *

Issued in Washington, DC, on June 22, 2020.

Scott M. Rosenbloom,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2020-13807 Filed 6-26-20; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF EDUCATION
34 CFR Chapter II

[Docket ID ED-2020-OESE-0037]

Proposed Priorities, Requirements, Definitions, and Selection Criteria—Promise Neighborhoods (PN) Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Proposed priorities, requirements, definitions, and selection criteria.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education proposes priorities, requirements, definitions, and selection criteria under the PN program, Catalog of Federal Domestic Assistance (CFDA) number 84.215N. The Assistant Secretary may use these priorities, requirements, definitions, and selection criteria for competitions in fiscal year (FY) 2020 and later years. We take this action to make program improvements based on lessons learned over the last decade and to improve program outcomes.

DATES: We must receive your comments on or before July 29, 2020.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

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

Postal Mail, Commercial Delivery, or Hand Delivery: If you mail or deliver your comments about the proposed priorities, requirements, definitions, and selection criteria, address them to Adrienne Hawkins, U.S. Department of Education, 400 Maryland Avenue SW, Room 4W220, Washington, DC 20202.

Privacy Note: The Department of Education’s (Department) policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT:

Adrienne Hawkins, U.S. Department of Education, 400 Maryland Avenue SW, Room 4W220, Washington, DC 20202. Telephone: (202) 453-5638. Email: Adrienne.Hawkins@ed.gov.

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

SUPPLEMENTARY INFORMATION:

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

We invite you to assist us in complying with the specific requirements of Executive Orders 12866, 13563, and 13371 and their overall requirement of reducing regulatory burden that might result from these proposed priorities, requirements, definitions, and selection criteria. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed priorities, requirements, definitions, and selection criteria at 400 Maryland Avenue SW, Washington, DC 20202 between the hours of 8:30 a.m. and 4:00 p.m., Eastern Time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record: On request, we will

provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for the proposed priorities, requirements, definitions, and selection criteria. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: The PN program is authorized under the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESEA). The purpose of the PN program is to significantly improve the academic and developmental outcomes of children living in the most distressed communities of the United States, including ensuring school readiness, high school graduation, and access to a community-based continuum of high-quality services. The program serves neighborhoods with high concentrations of low-income individuals; multiple signs of distress, which may include high rates of poverty, childhood obesity, academic failure, and juvenile delinquency, adjudication, or incarceration; and schools implementing comprehensive support and improvement activities or targeted support and improvement activities under section 1111(d) of the ESEA. All strategies in the continuum of solutions must be accessible to children with disabilities and English learners.

Program Authority: 20 U.S.C. 7273-7274.

Proposed Priorities

This document contains four proposed priorities.

Background: Beginning in 2010, and in the FY 2017 competition, the PN program used absolute priorities for rural, Tribal, and non-rural, non-Tribal applicants to create three different funding slates. Multiple funding slates created a level playing field for different applicants by allowing applicants with similar challenges and circumstances to compete against one another. The three absolute priorities resulted in a mix of rural, Tribal, and non-rural, non-Tribal grantees. Over the years, the PN program has awarded 54 grants to urban communities, 13 grants to rural communities, and 6 grants to Tribal communities. Without multiple slates there would have been much fewer rural and Tribal grants. Therefore, in this document the Department proposes to establish priorities for non-rural, non-Tribal and for Tribal communities under Proposed Priorities 1 and 2. The Secretary’s Administrative Priorities (85

FR 13640), which are available for use in the PN program, already include a priority for rural applicants. In future competitions, separate slates will be utilized to determine rural, Tribal, and non-rural, non-Tribal grantees.)

Proposed Priority 1—Non-Rural and Non-Tribal Communities.

To meet this priority, an applicant must propose to implement a PN strategy that serves one or more non-rural or non-Tribal communities.

Proposed Priority 2—Tribal Communities.

To meet this priority, an applicant must propose to implement a PN strategy that serves one or more Indian Tribes (as defined in this notice).

Proposed Priority 3—Community-Level Opioid Abuse Prevention Efforts.

Background: In 2017, in response to the opioid crisis¹ plaguing many communities across the country, the Department created a priority for applicants that proposed to leverage other Federal resources available to fight opioid addiction. The Department awarded competitive preference points to applicants that demonstrated receipt of a Drug Free Communities (DFC) Support Program Grant from the Office of National Drug Policy to prevent opioid abuse (as one of its areas of focus) or a partnership with a DFC grantee as demonstrated by a memorandum of understanding. Of the 80 applications received in the 2017 competition, 40 applicants addressed this priority as a need in their communities and all applicants who received awards in 2017 addressed this priority. Funded grantees have leveraged these resources to provide direct support to families devastated by the opioid crisis through mental health support and drug prevention resources in schools where children are affected by this epidemic. Through Proposed Priority 3, the Department seeks to continue to address the opioid crisis in PN communities while also expanding the eligibility pool beyond projects supported with Federal resources.

Proposed Priority 3:

To meet this priority, an applicant must: (1) Demonstrate how it will partner with an organization that conducts high-quality, community-level activities to prevent opioid abuse, such as an organization supported by an Office of National Drug Control Policy, DFC Support Program grant, in PN communities; (2) describe the partner organization's record of success in approaching opioid abuse prevention at

the community level; and (3) provide, in its application, a memorandum of understanding between it and the partner organization responsible for managing the effort. The memorandum of understanding must indicate a commitment on the part of the applicant to coordinate implementation and align resources to the greatest extent practicable.

Proposed Priority 4—Evidence-Based Activities to Support Academic Achievement.

Background: Over the last 10 years, PN grantees attempted to significantly improve the academic achievement of children served by providing supports external to classroom instruction. While most grantees achieved some success in improving the academic achievement of students in the neighborhoods served, other grantees experienced challenges due to external factors such as change of school administration, housing affordability, family mobility, and school or neighborhood safety issues. Although our grantees attempt to resolve these issues through partnerships, these issues take time to resolve individually and collectively. Grantees with success in supporting students' successful transition to the next grade level, and completion of postsecondary education attributed the success to providing evidence-based instructional and comprehensive service strategies.

Proposed Priority 4:

Projects that propose to use evidence-based (as defined in 34 CFR 77.1(c)) activities, strategies, or interventions that support teaching practices that will lead to increasing student achievement (as defined in this notice), graduation rates, and career readiness.

Proposed Priority 5—Community-Based Crime Reduction Efforts.

Background: In 2011, the Department responded to challenges many neighborhoods were facing with crime—and specifically its effects on school safety, chronic absenteeism, and juvenile delinquency—by establishing a priority for the PN program focused on crime reduction. Through ongoing collaboration with the Department of Justice (DOJ), the Department provided supplemental funding to organizations with PN and Byrne Criminal Justice Innovation grants to further enhance community-based crime prevention efforts. In 2017, recognizing these efforts could be expanded to the pool of applicants through the PN competition, the Department established a competitive preference priority to encourage ongoing collaboration between education and public safety efforts. Ultimately, we awarded two new

grants to organizations partnering with a Byrne Criminal Justice Innovation grantee. These grantees have yielded results that have improved school safety and chronic absenteeism in their communities. In 2018, the DOJ renamed the Byrne Criminal Justice Innovation program to the Innovations in Community-Based Crime Reduction Program. Additionally, DOJ continues to implement the Formerly Incarcerated Reenter Society Transformed Safely Transitioning Every Person (FIRST STEP) initiative to support the re-entry of formerly incarcerated individuals into their communities. This proposed priority would allow us to support the connection of these important community-based public safety initiatives to PN communities by aligning education and public safety efforts.

Proposed Priority 5:

To meet this priority, an applicant must: (1) Demonstrate how it will partner with an organization that conducts high-quality activities focused on the re-entry of formerly incarcerated individuals or on community-based crime reduction activities, such as an organization supported by a U.S. Department of Justice (DOJ), Innovations in Community-Based Crime Reduction Program grant, a grant authorized under the Second Chance Act, as reauthorized under the Formerly Incarcerated Reenter Society Transformed Safely Transitioning Every Person (FIRST STEP) Act, or DOJ Office of Justice Programs competitive grants related to juvenile justice and delinquency prevention; (2) describe the partner organization's record of success with supporting the re-entry of formerly incarcerated individuals or community-based crime reduction and how their efforts will be coordinated with the PN activities of this grant; and (3) provide, in its application, a memorandum of understanding between it and a partner organization managing the effort. The memorandum of understanding must indicate a commitment on the part of the applicant to coordinate implementation and align resources to the greatest extent practicable.

Types of Priorities

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

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

¹“STATCAST—Week of September 9, 2019.” STATCAST, 2019, www.cdc.gov/nchs/pressroom/podcasts/20190911/20190911.htm.

Competitive preference priority:

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

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

Proposed Requirements

Background: The Assistant Secretary proposes application requirements to be used in conjunction with those in section 4624(a) of the ESEA. In general, the Department believes, based on past experiences administering this program, that these proposed requirements are necessary for the proper consideration of applications and would increase the likelihood of successful projects. Through the years, the program has pushed the field to embrace data-driven efforts to improve outcomes from cradle to career at the population level. Key elements proposed in this document would help us to further target PN funds on interventions in school, college, and career settings.

In addition, through proposed enhanced application requirements the program seeks to better support applicants and grantees to report high-quality site-level data. PN grantees have improved significantly in this area over the past several years through our technical assistance efforts, and we believe that the proposed application requirements would further support the Department's and grantees' ability to make data-informed decisions. The program seeks to clarify and enhance the statutory definitions and selection criteria to coincide with improvements to the overall purpose and structure of the PN program.

The proposed application requirements are intended to: (1) Assist applicants with clearly demonstrating the need for the project and proposed solutions (activities, strategies, and interventions) specific to the neighborhood's need; (2) acknowledge the critical role and direct, ongoing involvement that local educational agencies (LEAs) and schools should have in identifying and implementing solutions, especially those specific to improving academic outcomes; (3) ensure that an applicant has a

preexisting presence, as demonstrated by the applicant's past history providing programs and services, in the neighborhood to be served and is representative of that neighborhood; and (4) ensure that an applicant will design its project to prepare and empower families to be active in choosing the educational and other supports that best meet the needs of students in the community. We believe the proposed requirements would not only improve the application and review process but also improve program outcomes.

Proposed Application Requirements

The Assistant Secretary proposes the following application requirements for this program. We may apply one or more of these requirements in any year in which this program is in effect.

Proposed Application Requirements: To be considered for an award under this competition, an applicant must provide the following—

(1) In addressing the application requirements in sections 4624(a)(4), (5), and (7) of the ESEA, an applicant must clearly demonstrate needs, including, a segmentation analysis, gaps in services, and any available data from within the last 3 years to demonstrate needs. The applicant should also describe proposed activities that address these needs and the extent to which these activities are evidence-based (as defined in 34 CFR 77.1(c)). The applicant should also describe their, or partner organizations if applicable, experience providing these activities including any data demonstrating effectiveness.

(2) In addressing the requirement in section 4624(a)(6) of the ESEA, an applicant must provide a description of the process used to develop the application, which must include the involvement of an LEA(s) (including but not limited to the LEA's or LEAs' involvement in the creation and planning of the application and a signed Memorandum of Understanding) and at least one public elementary or secondary school that is located within the identified geographic area that the grant will serve.

(3) An applicant must demonstrate that its proposed project—

(a) Is representative of the geographic area proposed to be served (as defined in this notice); and

(b) Would provide a majority of the solutions from the applicant's proposed pipeline services in the geographic area proposed to be served.

(4) In addressing the requirement in section 4624(a)(9) of the ESEA, an applicant must describe the process it will use to establish and maintain a family navigation system (as defined in

this notice), including an explanation of the process the applicant will use to establish and maintain family and community engagement.

Proposed Definitions

The Assistant Secretary proposes the following definitions for this program. We may apply one or more of these definitions in any year in which this program is in effect.

Background: To ensure a common understanding of the proposed priorities, requirements, and selection criteria, we propose definitions that are critical to the statutory and policy purposes of the PN program. We propose these definitions in order to clarify expectations for applicants for PN program grants and to ensure that the review process for applications for PN grants remains as transparent as possible.

Proposed Definitions

Family navigation system means a service delivery model that includes coordinators who teach, mentor, and collaborate with students and their families, as well as community members, to choose interventions, treatments, or solutions provided by the grantee and that best meet the needs of students and their families. Students and their families can select services and supports based on available services and individual needs, as well as advocate for additional services.

Graduation rate means the four-year adjusted cohort graduation rate or extended-year adjusted cohort graduation rate as defined in section 8101(25) and (23) of the ESEA.

Indian Tribe means an Indian Tribe or Tribal Organization as defined in section 4 of the Indian Self-determination Act (25 U.S.C. 450b).

Indicators of need means currently available data that describe—

(a) Education need, which means—

(1) All or a portion of the neighborhood includes or is within the attendance zone of a low-performing school that is a high school, especially one in which the graduation rate (as defined in this notice) is less than 60 percent or a school that can be characterized as low-performing based on another proxy indicator, such as students' on-time progression from grade to grade; and

(2) Other indicators, such as significant achievement gaps between subgroups of students (as identified in section 1111(b)(2)(B)(xi) of the ESEA), within a school or LEA, high teacher and principal turnover, or high student absenteeism; and

(b) Family and community support need, which means—

(1) Percentages of children with preventable chronic health conditions (e.g., asthma, poor nutrition, dental problems, obesity) or avoidable developmental delays;

(2) Immunization rates;

(3) Rates of crime, including violent crime;

(4) Student mobility rates;

(5) Teenage birth rates;

(6) Percentage of children in single parent or no-parent families;

(7) Rates of vacant or substandard homes, including distressed public and assisted housing; or

(8) Percentage of the residents living at or below the Federal poverty threshold.

Regular high school diploma has the meaning set out in section 8101(43) of the ESEA.

Representative of the geographic area proposed to be served means that residents of the geographic area proposed to be served have an active role in decision-making and that at least one-third of the applicant's governing board or advisory board is made up of—

(a) Residents who live in the geographic area proposed to be served, which may include residents who are representative of the ethnic and racial composition of the neighborhood's residents and the languages they speak;

(b) Residents of the city or county in which the neighborhood is located but who live outside the geographic area proposed to be served, and who earn less than 80 percent of the area's median income as published by the U.S. Department of Housing and Urban Development;

(c) Public officials who serve the geographic area proposed to be served (although not more than one-half of the governing board or advisory board may be made up of public officials); or

(d) Some combination of individuals from the three groups listed in paragraphs (a), (b), and (c) of this definition.

Segmentation analysis means the process of grouping and analyzing data from children and families in the geographic area proposed to be served according to indicators of need or other relevant indicators to allow grantees to differentiate and more effectively target interventions based on the needs of different populations in the geographic area.

Student achievement means—

(a) For tested grades and subjects—

(1) A student's score on the State's assessments under the ESEA; and

(2) As appropriate, other measures of student learning, such as those

described in paragraph (b) of this definition, provided they are rigorous and comparable across classrooms and programs; and

(b) For non-tested grades and subjects, alternative measures of student learning and performance, such as student scores on pre-tests and end-of-course tests; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across classrooms.

Student mobility rate is calculated by dividing the total number of new student entries and withdrawals at a school, from the day after the first official enrollment number is collected through the end of the academic year, by the first official enrollment number of the academic year.

Proposed Selection Criteria

Background: The Department has held six PN competitions since 2010. Our experience with administering these competitions, including feedback from peer reviewers, applicants, funded grantees, and experts, demonstrates the need to use program-specific selection criteria to evaluate specific program elements. We propose to modify two general Education Department General Administrative Regulations selection criteria—Need for Project and Quality of Project Design—to encourage applicants to fully address gaps and weaknesses in the full pipeline of solutions from cradle through college and a career.

Under Need for Project, the Department proposes to add a program-specific emphasis on the applicant's proposed pipeline of solutions. The Department recognized in past grant competitions that applicants were not connecting the identified gaps and weaknesses to the full pipeline of solutions. The Department considers it important for applicants to address and align the needs identified with the full pipeline of solutions.

Also, under Quality of Project Design, the Department proposes to encourage applicants to discuss college or career and technical education training completion in addition to college and career readiness. Over the years, the Department has noticed that many applicants and funded grantees tend to end services prior to students in the community entering college or the workforce. The Department deems it important to ensure that services and supports are offered to program participants beyond high school completion.

Proposed Selection Criteria

The Assistant Secretary proposes the following selection criteria for evaluating an application under this program. We may apply one or more of these criteria in any year in which this program is in effect.

(a) *Need for project.* In determining the need for the proposed project, the Secretary considers one or more of the following factors—

(1) The magnitude or severity of the problems to be addressed by the proposed project as described by indicators of need and other relevant indicators identified in part by the needs assessment and segmentation analysis; and

(2) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including—

(i) The nature and magnitude of those gaps or weaknesses; and

(ii) A pipeline of solutions addressing the identified gaps and weaknesses, including solutions targeted to early childhood, K–12, family and community supports, and college and career.

(b) *Quality of project design.* In determining the quality of project design for the proposed project, the Secretary considers one or more of the following factors—

(1) The extent to which the applicant describes a plan to create a complete pipeline of services, without time and resource gaps, that is designed to prepare all children in the neighborhood to attain a high-quality education and successfully transition to college and a career;

(2) The extent to which the project will significantly increase the proportion of students in the neighborhood that are served by the complete continuum of high-quality services; and

(3) The extent to which the proposed family navigation system is high quality and provides students and their families sufficient services and supports based on available services and individual needs.

Final Priorities, Requirements, Definitions, and Selection Criteria

We will announce the final priorities, requirements, definitions, and selection criteria in the **Federal Register**. We will determine the final priorities, requirements, definitions, and selection criteria after considering responses to the proposed priorities, requirements, definitions, and selection criteria and other information available to the

Department. This document does not preclude us from proposing additional priorities, requirements, definitions, and selection criteria, subject to meeting applicable rulemaking requirements.

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

Executive Orders 12866, 13563, and 13771

Regulatory Impact Analysis

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

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an “economically significant” rule);

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

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

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

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

Under Executive Order 13771, for each new regulation that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866, and that imposes total costs greater than zero, it must identify two deregulatory actions. For FY 2020, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. Because the proposed regulations are not a significant regulatory action, the requirements of Executive Order 13771 do not apply.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and

explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

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

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

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

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

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

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

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

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

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory

requirements and those we have determined as necessary for administering the Department’s programs and activities. The benefits include enhancing project design and quality of services to better prepare grantees to meet the objectives of the programs.

Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum “Plain Language in Government Writing” require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make the proposed priorities, requirements, definitions, and selection criteria easier to understand, including answers to questions such as the following:

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

Regulatory Flexibility Act Certification

The Secretary certifies that this proposed regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define “small entities” as for-profit or nonprofit institutions with total annual revenue below \$7,000,000 or, if they are institutions controlled by small governmental jurisdictions (that are comprised of cities, counties, towns, townships, villages, school districts, or special districts), with a population of less than 50,000.

The small entities that this proposed regulatory action would affect are State educational agencies; LEAs, including charter schools that operate as LEAs under State law; institutions of higher education; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations. We believe

that the costs imposed on an applicant by the proposed priorities, requirements, definitions, and selection criteria would be limited to paperwork burden related to preparing an application and that the benefits of the proposed priorities, requirements, definitions, and selection criteria would outweigh any costs incurred by the applicant.

Participation in the PN program is voluntary. For this reason, the proposed priorities, requirements, definitions, and selection criteria would impose no burden on small entities unless they applied for funding under the program. We expect that in determining whether to apply for PN program funds, an applicant would evaluate the requirements of preparing an application and any associated costs, and weigh them against the benefits likely to be achieved by receiving a PN program grant. An applicant would probably apply only if it determines that the likely benefits exceed the costs of preparing an application.

We believe that the proposed priorities, requirements, definitions, and selection criteria would not impose any additional burden on a small entity applying for a grant than the entity would face in the absence of the proposed action. That is, the length of the applications those entities would submit in the absence of the proposed regulatory action and the time needed to prepare an application would likely be the same.

This proposed regulatory action would not have a significant economic impact on a small entity once it receives a grant because it would be able to meet the costs of compliance using the funds provided under this program. We invite comments from small eligible entities as to whether they believe this proposed regulatory action would have a significant economic impact on them and, if so, request evidence to support that belief.

Paperwork Reduction Act

The proposed priorities, requirements, definitions, and selection criteria contain information collection requirements that are approved by OMB under OMB control number 1894-0006; the proposed priorities, requirements, definitions, and selection criteria do not affect the currently approved data collection.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a

strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

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

Assessment of Educational Impact

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

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

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

You may also access documents of the Department published in the **Federal Register** by using the article search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Frank T. Brogan,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2020-13158 Filed 6-26-20; 8:45 am]

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LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. 2016-03]

Mandatory Deposit of Electronic-Only Books

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Copyright Office is issuing a revised proposed rule to make electronic-only books published in the United States subject to the Copyright Act's mandatory deposit provisions if they are affirmatively demanded by the Office. In response to comments received in response to the Office's April 16, 2018 Notice of Proposed Rulemaking, the revised proposed rule makes additional clarifying edits to the definition of an "electronic-only book" and adjusts the requirements related to employment of technological protection measures. This document also updates the public on developments subsequently announced by the Library of Congress related to certain questions raised in public comments with respect to its digital collection strategy and information technology security matters.

DATES: Written comments must be received no later than 11:59 p.m. Eastern Time on July 29, 2020.

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

FOR FURTHER INFORMATION CONTACT: Regan A. Smith, General Counsel and Associate Register of Copyrights, regans@copyright.gov; Kevin R. Amer, Deputy General Counsel, kamer@copyright.gov; or Mark T. Gray, Attorney-Advisor, mgray@copyright.gov. They can be reached by telephone at 202-707-3000.

SUPPLEMENTARY INFORMATION:

I. Background

A. Mandatory Deposit Under the Copyright Act Generally

Section 407 of title 17 requires that the owner of the copyright or the exclusive right of publication in a work published in the United States, within three months of publication, deposit "two complete copies of the best edition" with the Copyright Office "for the use or disposition of the Library of Congress."¹ The "best edition" is defined as "the edition, published in the

¹ 17 U.S.C. 407(a), (b); see generally 37 CFR 202.19.

United States at any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes.”² These requirements are governed by section 202.19 and Appendix B of part 202 of the Office’s regulations, which set forth rules and criteria, respectively, for the different types of works subject to the mandatory deposit requirement.

Under the statute, the Register of Copyrights may issue a written demand for works at any time after they have been published in the United States, and failure to deposit after a demand may subject the recipient to monetary liability.³ Compliance with this section is separate from the copyright registration process, but the Copyright Act provides that deposits made under section 407 may be used to satisfy the registration deposit provisions under section 408, if all other registration conditions are met.⁴

Certain categories of works are not subject to mandatory deposit. As set out in the statute, unpublished works and foreign works that have not been published in any form in the United States do not have to be deposited. In addition, under section 407(c), the Register can, by regulation, exempt any categories of material from section 407’s mandatory deposit requirements or demand only one copy to provide a “satisfactory archival record of a work.” Under this authority, the Register has excluded numerous categories of works from the mandatory deposit requirement, such as greeting cards, architectural blueprints, and three-dimensional sculptural works.⁵

B. Regulations Regarding Mandatory Deposit of Electronic-Only Materials

In 2010, the Office issued an interim rule (the “2010 Interim Rule”) codifying its established practice of excluding from mandatory deposit requirements all “[e]lectronic works published in the United States and available only online.”⁶ The 2010 Interim Rule referred to such works as “electronic-only.” In generally excluding electronic-

only works from the mandatory deposit requirement, the Office also, however, adopted an exception to this exemption, requiring the deposit of electronic-only serials if affirmatively demanded by the Office.⁷ An electronic-only serial is “an electronic work published in the United States and available only online, issued or intended to be issued on an established schedule in successive parts bearing numerical or chronological designations, without subsequent alterations, and intended to be continued indefinitely.”⁸ This category includes “periodicals, newspapers, annuals, and the journals, proceedings, transactions, and other publications of societies.”⁹ The 2010 Interim Rule stated that any additional categories of electronic-only works would first be “identified as being subject to demand” through a rulemaking with notice and comment before the Office issues any actual demands for such works.¹⁰ The present proposed rule is one such rulemaking.

C. 2016 Notice of Inquiry Regarding Expansion of Demand-Based Deposit

In 2016, the Office issued a notice of inquiry (“NOI”) that proposed to finalize the 2010 interim rule and to add a new category of online works—electronic-only books—to the demand-based mandatory deposit scheme.¹¹ The Office sought comments on four topics: (1) The efficacy of the interim rule, including whether it adequately serves the needs of the Library and other affected parties and whether it could serve as a good framework for adding additional categories of electronic works to the mandatory deposit system; (2) the Library’s access policy as applied to both electronic-only serials and, potentially, to electronic-only books; (3) “information technology, security, and/or other requirements” that should apply to the receipt and storage of, and access to, electronic-only books; and (4) how the “best edition” requirements should be applied to the mandatory deposit of electronic-only books. The Office received fifteen comments on the proposed changes. While some of the

comments praised the efforts to collect more works in the identified categories, others expressed reservations.

D. 2018 Proposed Rule Regarding Electronic-Only Book Deposit

In April 2018, the Office issued a notice of proposed rulemaking (“2018 NPRM”) seeking public comment on a proposal to finalize the interim rule and to extend the demand-based mandatory deposit requirements to electronic-only books.¹² The 2018 NPRM proposed that the term “electronic-only book” be “defined broadly as an electronic literary work published in one volume or a finite number of volumes published in the United States and available only online,” with some exclusions for specific types of works such as serials, audiobooks, websites, blogs, and emails.¹³ To clarify how the rule would apply in the context of books available for print-on-demand, the definition provided that a work would be deemed available only online “even if physical copies or phonorecords have been made on demand for individual consumers, so long as the work is otherwise available only online.”¹⁴

The 2018 NPRM also addressed questions raised by commenters regarding Library access policies and information technology requirements. The Office proposed to modify existing regulations to apply the same access policies to deposited electronic-only books as those applicable to electronic deposits of newspapers: Access would be provided only to authorized users on Library of Congress premises and off-site to Library staff as part of their assigned duties via a secure connection.¹⁵ In response to comments expressing concern about the adequacy of the Library’s technology security infrastructure, the 2018 NPRM provided information on the recent steps taken by the Library to address its information technology needs, including the appointment of a permanent Chief Information Officer, the implementation of security standards, and the use of comprehensive security testing for all Library systems.¹⁶

Finally, the proposed rule established “best edition” requirements for electronic-only books, adopting provisions from the Library’s Recommended Formats Statement with some clarifying language regarding the

² 17 U.S.C. 101; see also 17 U.S.C. 407(b).

³ 17 U.S.C. 407(d).

⁴ *Id.* at 408(b). Although section 408 states that copies deposited pursuant to the mandatory deposit provision in section 407 may be used to satisfy the registration deposit requirement in section 408, in practice the Office treats copies of works submitted for registration as satisfying the mandatory deposit requirement (assuming the deposit requirements are the same), and not vice versa. 37 CFR 202.19(f)(1), 202.20(e); see 43 FR 763, 768 (Jan. 4, 1978).

⁵ See 37 CFR 202.19(c).

⁶ Mandatory Deposit of Published Electronic Works Available Only Online, 75 FR 3863, 3869 (Jan. 25, 2010) (“2010 Interim Rule”); 37 CFR 202.19(c)(5).

⁷ 2010 Interim Rule at 3865–66. “Electronic works” are themselves defined as “works fixed and published solely in an electronic format.” 37 CFR 202.24(c)(3).

⁸ 37 CFR 202.19(b)(4).

⁹ *Id.*

¹⁰ 2010 Interim Rule at 3866.

¹¹ Mandatory Deposit of Electronic Books and Sound Recordings Available Only Online, 81 FR 30505, 30506–08 (May 17, 2016) (“2016 NOI”). The NOI also included online sound recordings as a potential additional category of works to subject to mandatory deposit, but the Office has decided to postpone further consideration of this issue until after the conclusion of this rulemaking.

¹² Mandatory Deposit of Electronic-Only Books, 83 FR 16269 (Apr. 16, 2018) (“2018 NPRM”).

¹³ *Id.* at 16272.

¹⁴ *Id.* at 16272–73.

¹⁵ *Id.* at 16270 (citing 37 CFR 202.18).

¹⁶ 2018 NPRM at 16273–74.

“completeness” of a work.¹⁷ These provisions also included a requirement that depositors remove technological measures that control access to or use of the work, as is currently required for electronic-only serials.¹⁸

II. Discussion

The Office received nine comments in response to the 2018 NPRM. Commenters generally expressed agreement with the broad goal of supporting the Library’s acquisition and preservation of digital materials for the benefit of the American public. The Library Copyright Alliance supported the proposed rule “because of the critical role of deposit in building the Library’s collection and ensuring long-term preservation” of digital materials.¹⁹ Authors Guild similarly noted that the Library “cannot fulfill [its] mission today without collecting books that are published only in electronic form,”²⁰ and the Association of American Publishers stated “[p]ublishers have long supported the special privilege of the Library to collect works” through mandatory deposit.²¹ Authors Alliance supported the rule because, in its view, mandatory deposit “serve[s] the long-term interests of authors by ensuring that their creative and intellectual legacies are preserved.”²²

At the same time, the comments revealed significant concern over several aspects of the proposed rule. A number of commenters requested clarification of the rule’s intended scope, pointing to ambiguity in the definition of the term “electronic-only book” and uncertainty as to the collections policies that would govern acquisition decisions.²³ Commenters also raised questions regarding the security of digital materials deposited

pursuant to the rule. Some commenters urged the Office to provide additional assurances as to the adequacy of the Library’s digital security practices,²⁴ while others objected to the proposed requirement that deposited materials be free of technological protection measures.²⁵

The Office has carefully considered these comments and finds that they have helpfully identified several areas that would benefit from further discussion or explanation. In response to certain issues raised by commenters, the Office has made revisions to the proposed regulatory text. In addition, to further demonstrate the basis for the proposed rule, the Office is providing additional information in response to commenters’ questions regarding Library collections and security policies, including to share relevant developments that occurred after the close of the initial comment period.²⁶ The Office addresses each of these issues below and welcomes additional public comment. In light of the existing rulemaking record and, as noted below, the progress the Library has reported to the Office in response to the 2018 NPRM, the Office anticipates being able to reasonably move forward with finalization of the proposed rule after this round of comments.

A. Scope of Material Subject to Deposit

1. Definition of “Electronic-Only Book”

The 2018 proposed rule defined an “electronic-only book” as “an electronic literary work published in one volume or a finite number of volumes published in the United States and available only online.”²⁷ It specifically excluded “literary works distributed solely in

phonorecords (e.g., audiobooks), serials (as defined in § 202.3(b)(1)(v)), computer programs, websites, blogs, and emails.”²⁸ A number of comments raised questions about the scope of materials that would be subject to mandatory deposit under this definition.

First, the National Writers Union (NWU) found certain terminology in the proposed rule ambiguous. It noted that “[t]he term ‘volume,’ as applied to digital data, is normally used to describe a physical or virtual drive, storage device, partition, or filesystem, which can contain any number of related or unrelated files.”²⁹ NWU therefore believed the rule was unclear as to “which digital files or groups of files the Copyright Office considers or will deem to constitute ‘volumes.’”³⁰ Additionally, NWU expressed confusion over the exclusion of “websites” and “email” from the definition, noting that “[m]ost works distributed in electronic formats are distributed either as files downloadable from the World Wide Web—i.e., as part of websites—or by email.”³¹ Based on this interpretation, NWU reads the proposed rule to exclude, for example, all e-book files released for the Amazon Kindle because those files “can be downloaded . . . through the *Amazon.com* website” and thus are “part of websites.”³²

After consideration of NWU’s comments, the Office does not agree that the cited provisions are likely to cause confusion. When read in context, the term “volume” cannot plausibly be understood to describe a physical or digital drive that stores data. Rather, the regulatory text makes clear that the term carries its ordinary meaning as a unit in which a “literary work” is published.³³ The language simply indicates that, for purposes of defining an “electronic-only book,” it is immaterial whether a work is published in one file or is broken into multiple files. Nor does the Office find NWU’s interpretation of “websites” to be a reasonable reading. The fact that copies of a work are distributed via a website does not mean the work is *part* of the website. Moreover, excluding

¹⁷ *Id.* at 16274–75.

¹⁸ *Id.* at 16275.

¹⁹ Library Copyright Alliance Comment at 2; *see also* University of Michigan Copyright Office Comment at 1–2 (“strongly support[ing]” the proposed rule because it “provide a means for the Library of Congress to acquire [electronic-only books], preserve them, and provide limited access to them”).

²⁰ Authors Guild Comment at 2.

²¹ American Association of Publishers (“AAP”) Comment at 3–4; *see also* Copyright Alliance Comment at 2 (noting “the value of the Library’s ongoing efforts to preserve culturally significant works”).

²² Authors Alliance Comment at 2.

²³ Authors Guild Comment at 3–4 (raising questions about the Library’s collections policies and recommending changes to definition of “electronic-only book”); National Writers Union (“NWU”) Comment at 3–4 (expressing uncertainty about what material would be demanded based on Library collections policies); Copyright Alliance Comment at 3 (raising questions about Library’s collections strategy).

²⁴ Copyright Alliance Comment at 4 (requesting the Library “demonstrat[e] the adequacy of the Library’s IT system” before finalizing the rule); Authors Guild Comment at 3 (seeking additional specifics about the “security measures for e-books” and requesting more information about Library’s creation of a secure e-book repository); AAP Comment at 2–3 (seeking additional information about “the state of the Library’s technology capabilities, protocols, and security measures”).

²⁵ Copyright Alliance Comment at 4–5 (stating that technological protection measures serve as “important safeguards” for digital material); Authors Guild Comment at 5–6 (expressing concern that requiring removal of technological protection measures may “essentially require the publisher to create a new edition” where no such version is sold in the market).

²⁶ The Library Copyright Alliance suggested the Library’s access policies were overly restrictive and should allow for more than two users at a time to view the same resource. Library Copyright Alliance Comment at 4. For the reasons stated in the 2018 NPRM, the Office believes the Library’s access policies strike an appropriate balance between protecting against infringement and facilitating lawful uses by Library patrons. *See* 2018 NPRM at 16723.

²⁷ 2018 NPRM at 16275.

²⁸ *Id.*

²⁹ NWU Comment at 3.

³⁰ *Id.*

³¹ *Id.* at 4.

³² *Id.* at 4.

³³ The existing interim rule for electronic serials uses the terms “issues” and “volumes” in reference to units of a literary work, and depositors have not expressed confusion in applying these terms. *See* 37 CFR 202 app. B.IX.A.2.b. (requiring submission of available metadata for “volume(s)” and “issue date(s)”; 2010 Interim Rule at 3867 (“[I]t is expected that each issue of a demanded serial will be deposited with the Copyright Office thereafter as is the current practice.”).

such books would be at odds with both the purpose of the rule and Copyright Office practice. As the NOI explained, this proceeding is intended to facilitate collection of “electronic books that have been published solely through online channels,”³⁴ which certainly would include books distributed through major platforms such as Amazon. Further, the *Compendium of U.S. Copyright Office Practices* provides that a “work that is perceptible to the user only by downloading or separately purchasing that particular work is not considered part of the website for registration purposes and must be registered separately.”³⁵

Second, the Authors Guild noted that the proposed regulatory language did not address the length of works subject to the rule even though “books are generally defined as longer literary works.”³⁶ It recommended modifying the rule to clarify that “very short works, such as a single poem or a string of tweets,” are not covered.³⁷

Although the 2018 NPRM noted that the Library “does not intend to obtain blog posts, social media posts, and general web pages” through this rule,³⁸ the Office agrees that that limitation could be made clearer in the regulatory text itself. The Office therefore proposes revising the definitional language to expressly exclude “short online literary works such as social media posts.” The Office considered the possibility of adopting a longer and more detailed list of exclusions but ultimately concluded that such an approach would be infeasible given the speed at which new online services emerge. Moreover, any attempt to further limit the subclasses of literary works subject to the rule could result in the exclusion of certain works that fall within the rule’s intended scope. For example, excluding “poems” would not be advisable, as some poems are long enough to constitute a book (e.g., *Paradise Lost*). As noted in the 2018 NPRM, the Office recognizes that the traditional definition of a physical book “does not translate neatly to the digital environment” and that distinguishing “electronic-only books” from other types of online literary works may be difficult in certain cases at the margins.³⁹ Nevertheless, the Office continues to believe that the overall definitional approach set forth in the 2018 NPRM strikes an appropriate

balance between ensuring that the Library retains sufficient flexibility in its acquisition decisions, and making clear that rule’s intended focus is on “textual works that are marketed or presented as ‘electronic books’ and other monographic works such as organizational reports and long-form essays”—and not on blogs, social media posts, websites, and the like.⁴⁰ The additional language proposed here further clarifies this distinction.

Third, the Authors Guild suggested that the proposed definition is underinclusive because the phrase “available only online” might not encompass electronic books distributed offline, such as books preloaded onto e-readers or tablets.⁴¹ The Authors Guild proposed instead that references to a work being “available only online” be replaced with “available in electronic form.”⁴² The Office agrees that works of this type should be covered by the rule, but the language proposed by the Authors Guild potentially could sweep in electronic works that are also published in physical form. The Office believes that a more targeted solution is to address this situation in the section of the rule defining when a work is considered to be available only online. The revised proposed rule adds language to that definition providing that a work shall be deemed to be available only online “even if copies have been loaded onto electronic devices, such as tablets or e-readers, in advance of sale to individual consumers, so long as the work is otherwise available only online.”

Fourth, AAP raised questions about the rule’s requirement that “[a]ll updates, supplements, releases, and supersessions” of the work be deposited in a timely manner. AAP requested that the Office define the terms “updates, supplements, releases, and supersessions” and sought clarification as how the Office would treat books available in print whose digital editions contain additional content or revisions.⁴³ After consideration, the Office does not believe modification of the regulatory text is necessary. The language regarding updates and similar material is analogous to a longstanding requirement in the best edition

regulations for printed textual matter, which require “the regular and timely receipt of all appropriate looseleaf updates, supplements, and releases.”⁴⁴ The deposit requirement for updates to electronic-only books will be administered in the same manner that publishers are accustomed to for printed material. Nor is revision required to accommodate books available in print with additional content in a digital version. Where a work is available in both digital and print editions, the work is not “available only online,” and thus is not subject to the rule. To the extent the digital version contains supplementary material that is not published in the physical version, the electronically enhanced version would be subject to demand if it constitutes a separate “work” under the Copyright Act and is not otherwise excluded from the rule.

Fifth, the Office has determined that the rule should be revised to further clarify when print-on-demand books are to be deemed “available only online.” The original proposed rule provided that “[a] work shall be deemed to be *available only online* even if physical copies have been made on demand for individual consumers, so long as the work is otherwise available only online.”⁴⁵ The Office proposed that definition to address commenters’ concern that, in the case of books made available for printing by individual consumers, “it [would] be difficult for publishers to determine whether such works are subject to the general exemption for electronic-only works (and the demand-based mandatory deposit scheme proposed here), or whether they are subject to affirmative mandatory deposit requirements.”⁴⁶ The 2018 NPRM thus contemplated that a work would qualify as an e-book under the rule even if copies were “printed privately, in consumers’ homes, or at kiosks at brick-and-mortar bookstores.”⁴⁷

That situation, however, is distinguishable from a business model in which an author, publisher, or distributor prints copies in response to purchases by individual consumers. For example, a physical or online retailer might place orders for printed copies of a particular title only as individual requests for that title are received from customers, as opposed to ordering multiple copies from the publisher in advance of any customer purchases. These books are outside the scope of

³⁴ 81 FR at 30508.

³⁵ U.S. Copyright Office, *Compendium of U.S. Copyright Office Practices* sec. 1002.2 (3d ed. 2017).

³⁶ Authors Guild Comment at 4.

³⁷ *Id.*

³⁸ 2018 NPRM at 16272.

³⁹ *Id.*

⁴⁰ *Id.* To the extent that numerous short online posts, blogs, and social media posts are collected and published in a single monograph, such a collection would be subject to this rule, because it would be presented as an “electronic book” and would be copyrightable as a collective work.

⁴¹ Authors Guild Comment at 4.

⁴² *Id.*

⁴³ AAP Comment at 7 (inquiring as to the “degree of variation from the print version [that] suffices to make an electronic-only book subject to the requirement”).

⁴⁴ 37 CFR 202 app. B.I.A.8.

⁴⁵ 2018 NPRM at 16275.

⁴⁶ *Id.* at 16272–73.

⁴⁷ *Id.* at 16273.

this rule, and instead remain subject to the general mandatory deposit obligation under section 407. In circumstances where a retailer provides a physical copy for sale, it is immaterial to the purchaser—and likely unknown to acquisition specialists at the Copyright Office—whether the retailer has multiple copies on hand or obtains them individually to fulfill purchases as they occur. To make this distinction clear, the Office has amended the proposed rule to more precisely refer to books made available for on-demand printing by individual consumers, as distinguished from on-demand activities performed by distributors, publishers, retailers, or others in the supply chain. The revised language provides: “A work shall be deemed to be available only online even if copies have been made *available to individual consumers to print on demand*, so long as the work is otherwise available only online.”⁴⁸

2. The Library’s Collections Policies

In discussing the scope of materials subject to deposit under this rule, a number of commenters sought additional information about the Library of Congress’s specific collections policies. As the AAP put it, “[i]n providing for the transfer of said copies through mandatory deposit, Congress made clear that the Library must make demands under Section 407 with a purpose.”⁴⁹ The NWU stated that it “remain[ed] puzzled as to what works the Copyright Office intends to demand be deposited” under the proposed rule,⁵⁰ and the Authors Guild desired to see a “comprehensive collection strategy” from the Library before finalization of a rule.⁵¹ The Copyright Alliance expressed concern that there was a “lack of a clear and cohesive digital collections strategy within the Library of Congress” and requested the opportunity to give input into that strategy.⁵² And with respect to collection and preservation of digital

materials specifically, the Authors’ Guild explained, “[i]t is our understanding that the Library has not yet created and adopted a comprehensive strategy for safely storing books published in electronic form, despite the fact that e-books and electronic audio books have been a significant and growing percentage of books published for over a decade.”⁵³

As the 2018 NPRM indicates, the Copyright Office consults with the Library and relies on those discussions along with the Library’s public statements in considering and responding to commenters’ concerns in this area.⁵⁴ According to the Library, the criteria used to determine what electronic materials to acquire “do not greatly differ from those used for other formats.”⁵⁵ The Library prepares subject-specific Collections Policy Statements (e.g., Education, Chemical Sciences, Medicine, Theater) and makes them available on its website.⁵⁶ These policies detail what kinds of works the Library seeks to collect and at what level of comprehensiveness. For example, the Political Science statement notes that the Library seeks to “collect[] all the important current reference works” in the field, regardless of language, while it collects foreign textbooks “on a highly selective basis.”⁵⁷ The Library also maintains supplementary guidelines to assist in applying these standards to electronic works.⁵⁸ For example, the guidelines note that criteria weighing in favor of acquisition include the at-risk nature of a work or its availability only in digital format.⁵⁹ In general, however, the Office understands that Library acquisition decisions involving electronic materials are governed by the relevant Collections Policy Statement, as is true for works in physical format.⁶⁰ As the Library’s

Collection Development Office has explained, this policy reflects the Library’s effort to develop “one interdependent collection that contains both its traditional physical holdings and materials in digital formats.”⁶¹

With respect to commenters’ concerns about the Library’s digital strategy,⁶² the Library has provided further public information following the close of the comment period, most notably in its five-year strategic plan and in a formal digital strategy document that supports the strategic plan. The 2019–2023 strategic plan, *Enriching the User Experience*, notes that “being digitally enabled is paramount to [the Library of Congress’s] success.”⁶³ Describing digital efforts as an “ongoing process,” the plan states that in the next five years the Library will streamline its operational capabilities and undertake efforts to identify gaps in expertise and recruit new talent to fill those gaps.⁶⁴ The Library’s digital strategy, published in April 2019, describes a five-year plan for expanding its digital collections and providing access to that material, in connection with the Library’s broad goals of “throwing open the treasure chest, connecting, and investing in our future.”⁶⁵ It notes that the Library intends to “exponentially” expand its digital collections, provide “maximum authorized access” to material in the collection depending on the type of patron, and use “verifiable chain of custody” to ensure the authenticity of digital material and prevent digital deterioration.⁶⁶

The Library also has worked to implement the recommendation made in an April 2015 report by its Inspector

devpol/polisci.pdf (“[c]omparable electronic materials are collected at the same levels” as physical materials).

⁶¹ Library of Congress Collection Development Office, *Collecting Digital Content at the Library of Congress* at 3 (Feb. 2017), <https://www.loc.gov/acq/devpol/CollectingDigitalContent.pdf>.

⁶² Authors Guild Comment at 2; Copyright Alliance Comment at 3.

⁶³ Library of Congress, *Enriching the Library Experience: The FY2019–2023 Strategic Plan of the Library of Congress* at 13, https://www.loc.gov/static/portals/strategic-plan/documents/LOC_Strat_Plan_2018.pdf.

⁶⁴ *Id.* at 13, 23.

⁶⁵ Library of Congress, *Digital Strategy* at 2 (Apr. 26, 2019), <https://www.loc.gov/static/portals/digital-strategy/documents/Library-of-Congress-Digital-Strategy-v1.1.2.pdf>.

⁶⁶ *Id.* at 3–4, 10 (digital acquisitions will be expanding “as outlined in *Collecting Digital Content at the Library of Congress*”); see also Library of Congress Collection Development Office, *Collecting Digital Content at the Library of Congress* at 3–6 (Feb. 2017), <https://www.loc.gov/acq/devpol/CollectingDigitalContent.pdf> (describing Library’s plans to expand digital collections through avenues such as copyright deposit, purchase, and exchange).

⁴⁸ On a related issue, one commenter inquired whether a copyright owner could comply with a demand from the Office under this rule by providing a print version of an electronic-only book. AAP Comment at 7. Because this rule is crafted “as a way to fulfill the Library’s digital collections,” 2018 NPRM at 16271, the rule does not contemplate deposit of a print version of an electronic-only book. As with any deposit demand under section 407, however, copyright owners may request special relief from the deposit requirement to provide a different format, such as a print version. Such a decision would be made by the Register after consultation with other appropriate officials from the Library of Congress. See 37 CFR 202.19(e)(2).

⁴⁹ AAP Comment at 4 (citing H.R. Rep. No. 1476, 94th Cong., 2d Sess. 151 (1976)).

⁵⁰ NWU Comment at 3.

⁵¹ Authors Guild Comment at 3.

⁵² Copyright Alliance Comment at 3.

⁵³ Authors Guild Comment at 2.

⁵⁴ See 2018 NPRM at 16271, 16273 (noting consultations with and public statements by the Library).

⁵⁵ Library of Congress, *Library of Congress Collections Policy Statements Supplementary Guidelines: Electronic Resources 2* (Aug. 2016), <https://www.loc.gov/acq/devpol/electronicresources.pdf>.

⁵⁶ See *Collections Policy Statements and Supplementary Guidelines*, Library of Congress, <https://www.loc.gov/acq/devpol/cpsstate.html>.

⁵⁷ Library of Congress, *Library of Congress Collections Policy Statements: Political Science 2–3* (Nov. 2017), <https://www.loc.gov/acq/devpol/polisci.pdf>.

⁵⁸ Library of Congress, *Library of Congress Collections Policy Statements Supplementary Guidelines: Electronic Resources 2* (Aug. 2016), <https://www.loc.gov/acq/devpol/electronicresources.pdf>.

⁵⁹ *Id.*

⁶⁰ See, e.g., Library of Congress, *Library of Congress Collections Policy Statements: Political Science 2* (Nov. 2017), <https://www.loc.gov/acq/>

General (“OIG”) on these issues.⁶⁷ In March 2018, the OIG noted that the Library had made progress toward creating “an overarching, transformative eCollections Strategy for collecting electronic works” by aligning all electronic collection under a single Digital Collecting Plan.⁶⁸ A subsequent OIG report noted that the Library has provided evidence of its efforts toward closing this recommendation, including “current Library of Congress Collections Policy Statements, which include digital content and proof that digital collecting is part of overarching Library collections strategies.”⁶⁹ The report further noted that the Library and OIG met in September 2019 to discuss next steps to achieve closure of the remaining e-deposit and e-collections recommendations.⁷⁰

The Office interprets this additional information to further clarify that the Library’s plans to increase its digital collection do not reflect a shift in the content-based considerations underlying its collections policies. Rather, the Office understands that the Library’s digital collections policies are substantively the same as its policies for physical works, and so an expansion of the mandatory deposit rule to electronic-only books would not significantly change the nature of the Library’s collections activity.

B. Technological Protection Measures

The 2018 proposed rule provided that “technological measures that control access to or use of the work should be removed.”⁷¹ In support of that requirement, the 2018 NPRM noted that while technological protection measures (“TPM”) “provide significant security assurances, . . . encumbering deposited copies with such protections would conflict with the Library’s purposes of preserving the works.”⁷² This requirement was adopted for electronic serials in the 2010 interim rule⁷³ and,

to the Office’s knowledge, has functioned without issue for those deposits.

Some commenters objected to extending this requirement to electronic-only books. For example, the Authors Guild expressed concern that in some instances, the only published edition of a book may be one employing technological protection measures, and that requiring removal would force some publishers to “transfer the files to new formats or use hacking codes to remove the controls.”⁷⁴ This would “not only put[] the author’s work at risk of piracy, but [would] put[] an unnecessary burden on publishers, especially on authors who independently publish and small publishers.”⁷⁵ The Copyright Alliance pointed to this requirement as heightening concerns about the Library’s IT security system, arguing that the possession of unencrypted digital works greatly increases the potential harm if the Library’s storage system were ever breached.⁷⁶

For the reasons noted in the 2018 NPRM, the Library generally prefers TPM-free editions of works to simplify and further its preservation efforts.⁷⁷ At the same time, the 2018 NPRM noted that the statutory deposit requirement is limited to the best *published* edition and “does not require the publisher or producer to create a special preservation copy simply for the benefit of the Library of Congress.”⁷⁸ To appropriately balance these considerations, and to respond to commenters’ concerns, the revised proposed rule removes the requirement that TPMs be removed from deposit copies, but updates the Best Edition regulations in Appendix B to Part 202 to reflect the Library’s preference for a TPM-free edition, if such a version has been published. That is, where a publisher has published both TPM-protected and non-TPM-protected versions of an e-book, the best edition for purposes of this rule is the latter. In accordance with the general approach of Appendix B to provide alternate options in descending orders of preference, where an electronic-only book is not published TPM-free, the proposed rule would next accept a copy for which the

owner has elected to remove such technological measures.

It is important to note, however, that under section 202.24, the Office’s regulations already provide that deposits “must be able to be accessed and reviewed by the Copyright Office, Library of Congress, and the Library’s authorized users on an ongoing basis.”⁷⁹ Such language is consistent with section 407 of the Copyright Act, which obligates deposit of materials for “use or disposition of the Library of Congress” in its collections.⁸⁰ So as a floor, the proposed rule clarifies that deposits must be otherwise provided in a manner that meets the requirements of current section 202.24(a)(4). In sum, depositors must take reasonable steps to ensure that the Library is able to access the work to the extent necessary for preservation and other lawful uses.⁸¹ In the case of a TPM-protected work, such efforts might include providing the same access codes that are available to purchasing consumers. And as explained in the NPRM, “in the unlikely event that the Library seeks to acquire a work that is *only* published in a proprietary format that cannot be viewed by the Library, the Office will work with the publisher to identify a means to access the work.”⁸²

C. Library of Congress IT Security

Several comments were directed not at the specific regulatory text in the proposed rule but instead at the Library’s IT security practices and the ability of the Library to secure electronic deposits from digital theft. The 2018 NPRM briefly discussed the Library’s work in this area,⁸³ but in light of the level of concern expressed by commenters, and because of important developments that have occurred since the close of the prior comment period, the Office is providing additional

⁷⁹ 37 CFR 202.24(a)(4).

⁸⁰ As commenters noted, in 1998, Congress specifically protected the use of technological protection measures by copyright owners by establishing a separate remedy against circumvention of such measures under section 1201 of title 17. See Copyright Alliance Comment at 5 (raising concerns about removal of technology protection measures, “which Congress considered critical enough to secure with independent legal protection”). But there is no indication that there was any congressional intent to abrogate the Library’s preexisting entitlement to usable deposits in section 407. See 17 U.S.C. 407(b) (“The required copies . . . shall be deposited . . . for the use or disposition of the Library of Congress.”).

⁸¹ Cf. 37 CFR 202.20(b)(2)(iii)(D) (noting that correspondence may be necessary for digital deposits “if the Copyright Office cannot access, view, or examine the content of any particular digital file that has been submitted for the registration of a work”).

⁸² 2018 NPRM at 16274.

⁸³ *Id.* at 16273–74.

⁶⁷ See Library of Congress Office of the Inspector General, *The Library Needs to Determine an eDeposit and eCollections Strategy* at 12 (Apr. 24, 2015), <https://www.loc.gov/static/portals/about/documents/edeposit-and-ecollections-strategy-april-2015.pdf>.

⁶⁸ Library of Congress Office of the Inspector General, *Semiannual Report to Congress* at 38 (Mar. 30, 2018), <https://www.loc.gov/static/portals/about/office-of-the-inspector-general/annual-reports/documents/March2018-semi-annual-report-to-congress.pdf>.

⁶⁹ Library of Congress Office of the Inspector General, *Semiannual Report to Congress* at 30 (Sept. 30, 2019), <https://www.loc.gov/static/portals/about/office-of-the-inspector-general/annual-reports/documents/September-2019-OIG-Semiannual-Report-to-Congress.pdf>.

⁷⁰ *Id.*

⁷¹ 2018 NPRM at 16275.

⁷² *Id.*

⁷³ 2010 Interim Rule at 3870.

⁷⁴ Authors Guild Comment at 5.

⁷⁵ *Id.*

⁷⁶ Copyright Alliance Comment at 4–5.

⁷⁷ The University of Michigan Copyright Office wrote in support of this proposed requirement because, in its experience, “such technological measures seriously impede long-term preservation.” University of Michigan Copyright Office Comment at 3.

⁷⁸ 2018 NPRM at 16274–75.

information shared by the Library that speaks to these issues.

Many commenters from organizations representing copyright owners were reluctant to support the proposed rule without additional assurances regarding the Library's security capabilities. The Authors Guild stated that it was "premature" to finalize a rule until the Library could "ensure[]" the security of e-books, and requested that a full security plan be explained and "vetted with publishers."⁸⁴ The Copyright Alliance requested that the Library "demonstrat[e] the adequacy of the Library's IT system" before finalizing a rule, lest the Office "put[] the cart before the horse" in demanding "blind faith" from copyright owners that the Library will protect deposits.⁸⁵ And AAP said it would be "premature" and "nothing short of reckless" to issue a final rule before implementation of the recommendations of the Government Accountability Office ("GAO") in its 2015 report on the Library's IT management.⁸⁶

The Copyright Office appreciates concerns about the security of digital deposits and agrees that the Office and Library occupy a position of public trust with respect to copyright deposits. It is incumbent on both organizations to operate in accordance with that trust. As the Library has stated in its digital strategy, "[p]romoting creativity and building cultural heritage collections entails protecting creators' intellectual property rights. This responsibility is salient at the Library, as the home of the United States Copyright Office."⁸⁷ After consultation with the Library, the Office is sharing additional information provided to it that discusses the significant effort the Library has undertaken to revamp its IT operations and ensure the integrity of its electronic deposits and other digital material in its collections.

As an initial matter, the Library has provided assurances of its commitment to digital security, both in public statements and in consultations with the Office. As the Library's Chief Information Officer testified to Congress in December 2019, "the Library is well aware of the need to ensure the security

of the digital content in [its] care."⁸⁸ He also has testified that the Library is implementing encryption for electronic copyright deposits, putting such materials on the same footing as other sensitive Library data.⁸⁹ Likewise, the Library has informed the Office that electronic deposits are given the same level of security as other highly sensitive information held by the Library, such as congressional material. According to the Library, this material is stored on a network that complies with the security standards established by the National Institute of Standards and Technology ("NIST"),⁹⁰ including standards SP 800–53 Rev. 4⁹¹ and FIPS 140–2,⁹² among others. NIST creates these security standards as required by the Federal Information Security Management Act,⁹³ which seeks to ensure that federal agencies "incorporate adequate, risk-based, and cost-effective security compatible with business processes."⁹⁴ Through its systems, the Library has received tens of millions of digital files in the last decade, including over 300,000 electronic serial issues and 460,000 electronic books received under the interim rule or pursuant to special relief agreements with publishers. As the Library has reported to the Copyright

Office, in no known instance has the Library's security been breached or its digital collections stolen.

Since the 2018 NPRM was published, the Library has provided additional detail on its IT security policies in several recent public statements, including congressional testimony. The Library's Chief Information Officer recently testified that the Library has "significantly increased our IT security posture over the last few years. We have implemented NIST security standards, with role based security, to ensure that users only have access to the data they are supposed to see."⁹⁵ He further noted that the Library regularly conducts penetration tests of its high value assets and "are implementing encryption—at rest and in-motion—for all sensitive Library data, including e-deposits."⁹⁶ Noting that "[s]ecurity is always a top priority for all Library IT," he further stated that the Library employs cybersecurity professionals to proactively monitor, test, and oversee security of the Library's systems.⁹⁷

The Librarian has similarly testified that the Library had made "significant IT security improvements" and cybersecurity enhancements "to heighten the detection of threats, thwart denial of service attacks, protect against malware and enable continuous monitoring so that issues are prevented, and if they occur, quickly identified and resolved."⁹⁸ Other improvements highlighted by the Library include requiring all staff to use multi-factor authentication to access the Library's systems,⁹⁹ upgrading the Library to a new data center that reduces the risk of service interruptions,¹⁰⁰ and

⁸⁸ *Oversight of Modernization of the United States Copyright Office*, Hearing Before the Senate Subcomm. on Intellectual Property, 116th Cong. 3 (Dec. 10, 2019) (prepared statement of Bernard A. Barton, Jr., Chief Information Officer, Library of Congress), <https://www.judiciary.senate.gov/imo/media/doc/Barton%20Testimony.pdf> ("Dec. 2019 Senate Oversight CIO Statement").

⁸⁹ *Id.* at 4.

⁹⁰ See *id.* at 3–4 (stating that the Library has "implemented NIST security standards, with role based security, to ensure that users only have access to the data they are supposed to see").

⁹¹ Special Publication (SP) 800–53 is "a catalog of security and privacy controls for federal information systems and organizations" provided by NIST that is meant to secure federal organizations "from a diverse set of threats including hostile cyber attacks, natural disasters, structural failures, and human errors (both intentional and unintentional)." SP 800–53 Rev. 4: *Security and Privacy Controls for Federal Information Systems and Organizations*, NIST (Jan. 22, 2015), <https://csrc.nist.gov/publications/detail/sp/800-53/rev-4/final>.

⁹² The FIPS 140–2 standard is the current set of requirements for cryptographic security outlined by NIST. See FIPS 140–2: *Security Requirements for Cryptographic Modules*, NIST (May 25, 2001), <https://csrc.nist.gov/publications/detail/fips/140/2/final>.

⁹³ The Federal Information Security Management Act was passed as Title III of the E-Government Act of 2002, Public Law 107–347.

⁹⁴ 44 U.S.C. 3602(f)(15) (describing responsibilities of head of Office of Electronic Government); see also National Institute of Standards and Technology, *FISMA Implementation Project: FISMA Background* (Feb. 26, 2020), <https://csrc.nist.gov/projects/risk-management/detailed-overview/> (describing law as "explicitly emphasize[ing] a risk-based policy for cost-effective security").

⁹⁵ Dec. 2019 Senate Oversight CIO Statement at 3–4. With respect to digital deposits, for example, the only staff able to access digital copies of audiovisual works are system administrators and employees of the Library's National Audio-Visual Conservation Center.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Library of Congress Modernization Oversight*, Hearing Before the Senate Comm. on Rules and Admin., 116th Cong. 23–24, (Nov. 7, 2019) (prepared statement of Carla Hayden, Librarian of Congress), <https://www.govinfo.gov/content/pkg/CHRG-116shrg38506/pdf/CHRG-116shrg38506.pdf> ("Nov. 2019 Senate Oversight Hearing").

⁹⁹ *Id.* at 23 ("We have implemented multi-factor authentication for all users, enhancing security protections for access to sensitive Library resources.").

¹⁰⁰ *Annual Oversight of the Library of Congress*, Hearing Before the Senate Comm. on Rules & Admin., 116th Cong. 21–22 (Mar. 6, 2019) (prepared statement of Carla Hayden, Librarian of Congress), <https://www.rules.senate.gov/imo/media/doc/Annual%20Oversight%20of%20the%20library%20of%20Congress%20Transcript.pdf> ("Mar. 2019 Senate Oversight Hearing") ("We are optimizing our hosting environments by transitioning to a new, Tier III-level data center, reducing the risk of service interruptions.").

⁸⁴ Authors Guild Comment at 2–3.

⁸⁵ Copyright Alliance Comment at 4.

⁸⁶ AAP Comment at 3, 5; see Government Accountability Office, *Strong Leadership Needed to Address Serious Information Technology Management Weaknesses* (Mar. 31, 2015), <https://www.gao.gov/assets/670/669367.pdf>.

⁸⁷ Library of Congress, *Digital Strategy* at 4 (Apr. 26, 2019), <https://www.loc.gov/static/portals/digital-strategy/documents/Library-of-Congress-Digital-Strategy-v1.1.2.pdf>.

participating in the Legislative Branch Cyber Security Working Group, which facilitates the exchange of expertise and coordination in response to security threats.¹⁰¹

More generally, the Library has sought to provide greater coordination by centralizing all IT efforts under the direction of the Office of the Chief Information Officer (“OCIO”). As the Librarian has explained, centralization was completed in October 2018 (after the close of the comment period), and now OCIO serves as the “single authoritative source for technology” at the Library.¹⁰² The Library has stated that it views IT centralization as key to enabling more efficient use of IT resources and improving IT security.¹⁰³

In addition, in late 2019 the Library launched a Digital Collections Management Compendium (“DCMC”), an online resource that collects the Library’s policies and practices for management of its digital collections.¹⁰⁴ The DCMC is intended to “broadly explain the Library’s practices for managing digital content for the public.”¹⁰⁵ It includes information about how the Library keeps inventory and tracks use of digital material, who is responsible for the security of digital collections, and what policies govern user permissions and periodic reviews of staff accounts.¹⁰⁶ For example, its guidance for digital collections security for stored digital content states:

To safeguard digital collections, the Library will develop and follow policies to ensure that only authorized user accounts and systems may modify digital collection

content. Inventory systems maintain logs of actions on digital content by digital content managers as well as systems. No single user should be able to unilaterally move or delete digital content without following an established procedure or system protocol, which can be monitored according to the documentation and recordkeeping of actions in inventory logs.¹⁰⁷

The DCMC also sets out a set of principles to be followed by the Library in providing access to digital collections that are supplementary to the regulatory restrictions established in 37 CFR 202.18, including “communicat[ing] known restrictions” on digital works to patrons and requiring patrons seeking use of digital items to “mak[e] independent legal assessments and secur[e] necessary permissions.”¹⁰⁸

The Library’s security efforts are bolstered by oversight from the OIG, which issues public reports detailing the Library’s progress. For example, the OIG’s March 2019 semiannual report to Congress noted that the Library uses Security Information and Event Management (“SIEM”) functionality for “robust continuous monitoring capabilities and ongoing insight into IT security control effectiveness.”¹⁰⁹ The OIG noted that it had engaged an IT contractor to evaluate the Library’s “SIEM implementation strategy and execution, internal controls, configuration, and incident detection response,” and that the Library agreed with all of the resulting recommendations.¹¹⁰ OIG also monitors the Library’s security practices in connection with its April 2015 report, which recommended that the Library, in developing a comprehensive policy for digital collections, ensure that electronic collections material be protected by “robust security” to prevent “loss, alteration, and unauthorized access.”¹¹¹ The OIG’s March 2018 report stated that “the Library’s IT Security Program and

Systems Development Lifecycle addresses the need for robust security.”¹¹²

Further, the Library has announced significant strides toward full implementation of the GAO’s 2015 recommendations.¹¹³ Some commenters requested that the Office wait to issue a final rule until the GAO’s thirty-one public recommendations had been implemented.¹¹⁴ In late 2019, the Librarian reported to Congress that all but four of the public recommendations have been implemented and closed, and that the GAO is reviewing the Library’s evidence for closing the final six (two of which are not public).¹¹⁵ Moreover, three of the four remaining public recommendations do not directly implicate security, instead involving the adoption of organizational plans for cost estimates, project scheduling, and customer satisfaction.¹¹⁶ The final

¹¹² Library of Congress Office of the Inspector General, *Semiannual Report to Congress* at 33 (Mar. 30, 2018), <https://www.loc.gov/static/portals/about/office-of-the-inspector-general/annual-reports/documents/March2018-semi-annual-report-to-congress.pdf>.

¹¹³ The GAO landing page for the report keeps track of which recommendations have been closed and the status of those that remain open. U.S. Government Accountability Office, *Library of Congress: Strong Leadership Needed to Address Serious Information Technology Management Weaknesses*, https://www.gao.gov/products/GAO-15-315#summary_recommend. See Government Accountability Office, *Strong Leadership Needed to Address Serious Information Technology Management Weaknesses* (Mar. 31, 2015), <https://www.gao.gov/assets/670/669367.pdf> (underlying report).

¹¹⁴ AAP Comment at 3 (“AAP insists that it is premature for the Copyright Office to issue a final rule for the benefit of the Library before there is public accountability as to the Library’s implementation of all of the Government Accountability Office’s 2015 rectifying recommendations”); Copyright Alliance Comment at 4–5 (citing GAO report and recommending a delay until “proper IT security and infrastructure is in place and fully functional”).

¹¹⁵ Nov. 2019 Senate Oversight Hearing at 22–23 (prepared statement of Carla Hayden, Librarian of Congress) (of the 107 total recommendations made by GAO, Library has closed 27 out of 31 public recommendations, 72 out of 74 non-public recommendations, and both recommendations for Copyright Office technology); *Oversight of Modernization of the United States Copyright Office*, Hearing Before Senate Subcomm. on Intellectual Property, 116th Cong. 1 (Dec. 10, 2019) (prepared statement of Carla Hayden, Librarian of Congress), <https://www.judiciary.senate.gov/imo/media/doc/Hayden%20Testimony.pdf> (“[T]his hard work has allowed us to close as implemented nearly 95% of the IT recommendations made by the Government Accountability Office (GAO) in 2015, and we will keep working until we close 100%.”).

¹¹⁶ See U.S. Government Accountability Office, *Library of Congress: Strong Leadership Needed to Address Serious Information Technology Management Weaknesses*, https://www.gao.gov/products/GAO-15-315#summary_recommend (comments in response to Recommendations 17, 18, 30).

¹⁰¹ *Id.* at 21.

¹⁰² Nov. 2019 Senate Oversight Hearing at 23 (prepared statement of Carla Hayden, Librarian of Congress).

¹⁰³ Mar. 2019 Senate Oversight Hearing at 16.

¹⁰⁴ See Library of Congress, *Digital Collections Management: About This Program*, <https://loc.gov/programs/digital-collections-management/about-this-program/>.

¹⁰⁵ Library of Congress, *Digital Collections Management: Frequently Asked Questions*, <https://www.loc.gov/programs/digital-collections-management/about-this-program/frequently-asked-questions/>. The information in the Compendium is “specifically focused on a collections management approach to ongoing management of digital collections” and thus “focuses less on the specific technical requirements of systems and more on the areas of work which are critical to the Library at present, including digital formats, custody, and inventory management.” *Id.*

¹⁰⁶ Library of Congress, *Digital Collections Security*, <https://www.loc.gov/programs/digital-collections-management/inventory-and-custody/digital-collections-security/> (explaining that “digital collections security policies and systems ensure that appropriate controls prevent unauthorized access, changes, deletion, or removal of collection content” and that the Library coordinates periodic account review to “ensure[] that appropriate access levels are maintained for digital content managers, and that account holders and system users represent currently active Library staff”).

¹⁰⁷ *Id.*

¹⁰⁸ Library of Congress, *Principles of Access*, <https://www.loc.gov/programs/digital-collections-management/access/principles-of-access/>. See also 2018 NPRM at 16275 (expanding 37 CFR 202.18 to electronic deposits under this rule); 2016 NOI at 30508.

¹⁰⁹ Library of Congress Office of the Inspector General, *Semiannual Report to Congress* at 10 (Mar. 29, 2019), <https://www.loc.gov/static/portals/about/office-of-the-inspector-general/annual-reports/documents/March2019-OIG-Semiannual-Report-to-Congress.pdf>.

¹¹⁰ *Id.*

¹¹¹ Library of Congress Office of the Inspector General, *The Library Needs to Determine an eDeposit and eCollections Strategy* at 35 (Apr. 24, 2015), <https://www.loc.gov/static/portals/about/documents/edeposit-and-ecollections-strategy-april-2015.pdf> (recommending Architecture Review Board be required to address eCollections security needs).

outstanding public recommendation, No. 22, calls for comprehensive and effective security testing.¹¹⁷ In response, the Library advised the GAO that it has conducted monthly tests since August 2015, and in November 2019 the Library provided the GAO with security control assessments for select systems.¹¹⁸ The Library has advised Congress that it expects to achieve closure of these outstanding recommendations within the next several months.¹¹⁹

While the Office appreciates commenters' interest in full implementation of the GAO's recommendations, it does not appear that the few remaining open items provide a basis for further delaying issuance of the proposed rule, particularly given the Library's overall efforts with respect to IT security since 2018. Collectively, those efforts support the Library's statement that it has "invested heavily in the optimization and centralization of information technology" and that "from a technological perspective, the Library of Congress today is a fundamentally different institution than it was just three short years ago."¹²⁰ Further, the Library has repeatedly expressed a commitment "to ensure the security of the digital content in [its] care."¹²¹ The

¹¹⁷ *Id.* ("To better protect IT systems and reduce the risk that the information they contain will be compromised, the Librarian should conduct comprehensive and effective security testing for all systems within the time frames called for by Library policy, to include assessing security controls that are inherited from the Library's information security program.").

¹¹⁸ *Id.* (comments in response to Recommendation 22).

¹¹⁹ See Nov. 2019 Senate Oversight Hearing at 14 (testimony by Bernard A. Barton, Jr., Chief Information Officer, Library of Congress) ("We are in constant communication with the GAO and providing evidence on closing out the remaining six finding. I do not have any concerns about being able to meet that by the end of this fiscal year."); Dec. 2019 Senate Oversight Librarian Statement at 1 ("this hard work has allowed us to close as implemented nearly 95% of the IT recommendations made by the Government Accountability Office (GAO) in 2015, and we will keep working until we close 100%").

¹²⁰ Dec. 2019 Senate Oversight Barton Statement at 1.

¹²¹ *Id.* at 3; Mar. 2019 Senate Oversight Hearing at 16 (Mar. 6, 2019) (testimony by Carla Hayden, Librarian of Congress) (stating that "security is of paramount importance" in response to question about whether Library was prepared for security threats to Library and Copyright Office materials); *Oversight of the Library of Congress' Information Technology Management*, Hearing Before the House Committee on Administration, 115th Cong. 10 (June 8, 2017) (testimony of Bernard A. Barton, Jr., Chief Information Officer, Library of Congress) <https://www.govinfo.gov/content/pkg/CHRG-115hhrg27632/pdf/CHRG-115hhrg27632.pdf> ("As confidential consultants to the Congress, administrator of the national copyright system, and stewards of the Nation's cultural history, the Library is well aware of the need to ensure security of the digital content in our care."); see also Library

Office believes that these security upgrades, together with the additional IT-related information made public since the close of the prior comment period, may reasonably address the concerns raised by commenters regarding the security of digital deposits.¹²² To ensure, however, that stakeholders have an adequate opportunity to consider and respond to the information provided on this important issue, the Office invites further comment on this topic.

III. Subjects of Inquiry

After considering the comments in response to the 2018 NPRM, the Office is proposing certain revisions to the initial proposed rule. The amended rule:

- (1) Redefines an "electronic-only book" to clarify that short online works, such as social media posts, are not intended to be encompassed by the rule;
- (2) Clarifies that books that are preloaded onto electronic devices before those devices are sold to consumers are subject to the rule, provided they otherwise meet its requirements;
- (3) Modifies the definitional language to further clarify when print-on-demand books are to be deemed "available only online"; and
- (4) Removes the requirement that all technological protection measures be removed, while retaining the general requirement that deposits be able to be "accessed and reviewed by the Copyright Office, Library of Congress, and the Library's authorized users on an ongoing basis."

The Copyright Office invites comment from the public on these proposed amendments and on the other matters discussed in this notice.

of Congress, *Digital Strategy* at 4 (Apr. 26, 2019), <https://www.loc.gov/static/portals/digital-strategy/documents/Library-of-Congress-Digital-Strategy-v1.1.2.pdf> ("Promoting creativity and building cultural heritage collections entails protecting creators' intellectual property rights. This responsibility is salient at the Library, as the home of the United States Copyright Office. We will explore creative solutions to reduce the barriers to material while respecting the rights of creators, the desires of our donors, and our other legal and ethical responsibilities.").

¹²² The Library has also sought stakeholder input when making technology decisions, providing opportunities for commenters to advise on the Library's security practices. See Dec. 2019 Senate Oversight Barton Statement at 1 (thanking leaders of subcommittee "for facilitating the opportunity for . . . me to speak with copyright stakeholders last month about modernization;" as such dialogue "goes a long way to increase transparency and clarify OCIO's role in the copyright modernization process"); Library of Congress, *Library of Congress Fiscal 2020 Budget Justification* at 121, <https://www.loc.gov/static/portals/about/reports-and-budgets/documents/budgets/fy2020.pdf> ("the USCO and Library's OCIO will provide opportunities for broad involvement" through "[o]ngoing stakeholder outreach" in modernizing Copyright Office systems).

List of Subjects in 37 CFR Part 202

Copyright.

Proposed Regulations

For the reasons set forth in the preamble, the Copyright Office proposes amending 37 CFR part 202 as follows:

PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

- 1. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 408(f), 702.

- 2. Amend § 202.18 by:

- a. Adding in paragraph (a) the words "and § 202.19, and transferred into the Library of Congress's collections," after "under § 202.4(e)" in the first sentence;
- b. Adding in paragraph (b), the words "and § 202.19" after "under § 202.4(e)" in the first sentence;
- c. Adding in paragraph (c), the words "and § 202.19" after "under § 202.4(e)" in the first sentence, and d. Adding paragraph (f) to read as follows:

§ 202.18 Access to electronic works.

* * * * *

(f) Except as provided under special relief agreements entered into pursuant to § 202.19(e) or § 202.20(d), electronic works will be transferred to the Library of Congress for its collections and made available only under the conditions specified by this section.

- 3. Amend § 202.19 by:

- a. Revising paragraph (b)(4), and
- b. Adding in paragraph (c)(5), the words "electronic-only books and" after the words "This exemption includes".

The revisions read as follows:

§ 202.19 Deposit of published copies or phonorecords for the Library of Congress.

* * * * *

(b) * * *

(4) For purposes of paragraph (c)(5) of this section:

(i) An *electronic-only serial* is a serial as defined in § 202.3(b)(1)(v) that is published in electronic form in the United States and available only online.

(ii) An *electronic-only book* is an electronic literary work published in one volume or a finite number of volumes published in the United States and available only online. This class excludes literary works distributed solely in phonorecords (e.g., audiobooks), serials (as defined in § 202.3(b)(1)(v)), computer programs, websites, blogs, emails, and short online literary works such as social media posts.

(iii) A work shall be deemed to be *available only online* even if copies have been made available to individual

consumers to print on demand, so long as the work is otherwise available only online. A work also shall be deemed to be available only online even if copies have been loaded onto electronic devices, such as tablets or e-readers, in advance of sale to individual consumers, so long as the work is otherwise available only online.

* * * * *

■ 4. Amend § 202.24 by:

- a. Removing in paragraph (a)(2), the words “works” and adding in its place the words “electronic-only serials”.
- b. Redesignating paragraphs (a)(3) and (4) as paragraphs (a)(4) and (5), respectively.
- c. Adding new paragraph (a)(3).
- d. Removing in paragraph (b), the words “online-only” and adding in its place the words “electronic-only”.
- e. Revising paragraph (c)(3).

The addition and revision reads as follows:

§ 202.24 Deposit of published electronic works available only online.

* * * * *

(a) * * *

(3) Demands may be made only for electronic-only books published on or after EFFECTIVE DATE OF RULE.

* * * * *

(c) * * *

(3) “Electronic-only” works are electronic works that are published and available only online.

* * * * *

Appendix B to Part 202 [Amended]

- 6. Amend Appendix B to Part 202 by revising paragraph IX to read as follows:

* * * * *

IX. Electronic-Only Works Published in the United States and Available Only Online

The following encodings are listed in descending order of preference for all deposits in all categories below:

1. UTF-8.
2. UTF-16 (with BOM).
3. US-ASCII.
4. ISO 8859.
5. All other character encodings.
- A. Electronic-Only Serials:
 1. Content Format:
 - a. Serials-specific structured/markup format:
 - i. Content compliant with the NLM Journal Archiving (XML) Document Type Definition (DTD), with presentation stylesheet(s), rather than without NISO JATS: Journal Article Tag Suite (NISO Z39.96-201x) with XSD/XSL presentation stylesheet(s) and explicitly stated character encoding.
 - ii. Other widely used serials or journal XML DTDs/schemas, with presentation stylesheet(s), rather than without.
 - iii. Proprietary XML format for serials or journals (with documentation), with DTD/schema and presentation stylesheet(s), rather than without.

- b. Page-oriented rendition:
 - i. PDF/UA (Portable Document Format/Universal Accessibility; compliant with ISO 14289-1).
 - ii. PDF/A (Portable Document Format/Archival; compliant with ISO 19005).
 - iii. PDF (Portable Document Format, with searchable text, rather than without; highest quality available, with features such as searchable text, embedded fonts, lossless compression, high resolution images, device-independent specification of colorspace; content tagging; includes document formats such as PDF/X).
 - c. Other structured or markup formats:
 - i. Widely-used serials or journal non-proprietary XML-based DTDs/schemas with presentation stylesheet(s).
 - ii. Proprietary XML-based format for serials or journals (with documentation) with DTD/schema and presentation stylesheet(s).
 - iii. XHTML or HTML, with DOCTYPE declaration and presentation stylesheet(s).
 - iv. XML-based document formats (widely used and publicly documented). With presentation stylesheets, if applicable. Includes ODF (ISO/IEC 26300) and OOXML (ISO/IEC 29500).
 - d. PDF (web-optimized with searchable text).
 - e. Other formats:
 - i. Rich text format.
 - ii. Plain text.
 - iii. Widely-used proprietary word processing or page-layout formats.
 - iv. Other text formats not listed here.
2. Metadata Elements: If included with published version of work, descriptive data (metadata) as described below should accompany the deposited material:
 - a. Title level metadata: Serial or journal title, ISSN, publisher, frequency, place of publication.
 - b. Article level metadata, as relevant/or applicable: Volume(s), number(s), issue dates(s), article title(s), article author(s), article identifier (DOI, etc.).
 - c. With other descriptive metadata (e.g., subject heading(s), descriptor(s), abstract(s)), rather than without.
3. Completeness:
 - a. All elements considered integral to the publication and offered for sale or distribution must be deposited—e.g., articles, table(s) of contents, front matter, back matter, etc. Includes all associated external files and fonts considered integral to or necessary to view the work as published.
 - b. All updates, supplements, releases, and supersessions published as part of the work and offered for sale or distribution must be deposited and received in a regular and timely manner for proper maintenance of the deposit.
4. Technological measures that control access to or use of the work should be removed.
- B. Electronic-Only Books:
 1. Content Format:
 - a. Book-specific structured/markup format, i.e., XML-based markup formats, with included or accessible DTD/schema, XSD/XSL presentation stylesheet(s), and explicitly stated character encoding:
 - i. BITS-compliant (NLM Book DTD).
 - ii. EPUB-compliant.

- iii. Other widely-used book DTD/schemas (e.g., TEI, DocBook, etc.).
- b. Page-oriented rendition:
 - i. PDF/UA (Portable Document Format/Universal Accessibility; compliant with ISO 14289-1).
 - ii. PDF/A (Portable Document Format/Archival; compliant with ISO 19005).
 - ii. PDF (Portable Document Format; highest quality available, with features such as searchable text, embedded fonts, lossless compression, high resolution images, device-independent specification of colorspace; content tagging; includes document formats such as PDF/X).
 - c. Other structured markup formats:
 - i. XHTML or HTML, with DOCTYPE declaration and presentation stylesheet(s).
 - ii. XML-based document formats (widely-used and publicly-documented), with presentation style sheet(s) if applicable. Includes ODF (ISO/IEC 26300) and OOXML (ISO/IEC 29500).
 - iii. SGML, with included or accessible DTD.
 - iv. Other XML-based non-proprietary formats, with presentation stylesheet(s).
 - v. XML-based formats that use proprietary DTDs or schemas, with presentation stylesheet(s).
 - d. PDF (web-optimized with searchable text).
 - e. Other formats:
 - i. Rich text format.
 - ii. Plain text.
 - iii. Widely-used proprietary word processing formats.
 - iv. Other text formats not listed here.
 2. Metadata Elements: If included with published version of work, descriptive data (metadata) as described below should accompany the deposited material:
 - a. As supported by format (e.g., standards-based formats such as ONIX, XMP, MODS, or MARCXML either embedded in or accompanying the digital item): Title, creator, creation date, place of publication, publisher/producer/distributor, ISBN, contact information.
 - b. Include if part of published version of work: Language of work, other relevant identifiers (e.g., DOI, LCCN, etc.), edition, subject descriptors, abstracts.
 3. Rarity and Special Features:
 - a. Limited editions (including those with special features such as high resolution images.)
 - b. Editions with the greatest number of unique features (such as additional content, multimedia, interactive elements.)
 4. Completeness:
 - a. For items published in a finite number of separate components, all elements published as part of the work and offered for sale or distribution must be deposited. Includes all associated external files and fonts considered integral to or necessary to view the work as published.
 - b. All updates, supplements, releases, and supersessions published as part of the work and offered for sale or distribution must be submitted and received in a regular and timely manner for proper maintenance of the deposit.
 5. Technological Protection Measures:

a. Copies published in formats that do not contain technological measures controlling access to or use of the work.

b. Copies published with technological measures that control access to or use of the work, and for which the owner has elected to remove such technological measures.

c. Copies otherwise provided in a manner that meets the requirements of § 202.24(a)(5).

* * * * *

Dated: June 11, 2020.

Regan A. Smith,

General Counsel and Associate Register of Copyrights.

[FR Doc. 2020–12969 Filed 6–26–20; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2020–0194; FRL 10010–69–Region 3]

Air Plan Approval; West Virginia; 1997 8-Hour Ozone Standard Second Maintenance Plan for the Charleston, West Virginia Area Comprising Kanawha and Putnam Counties

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of West Virginia. This revision pertains to the West Virginia Department of Environmental Protection's (WVDEP) plan for maintaining the 1997 8-hour ozone national ambient air quality standards (NAAQS) for the Charleston Area (comprising Kanawha and Putnam Counties). This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before July 29, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2020–0194 at <https://www.regulations.gov>, or via email to spielberger.susan@epa.gov. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment.

The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Gregory Becoat, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2036. Mr. Becoat can also be reached via electronic mail at becoat.gregory@epa.gov.

SUPPLEMENTARY INFORMATION: On December 10, 2019, WVDEP submitted a revision to the West Virginia SIP to incorporate a plan for maintaining the 1997 ozone NAAQS through August 10, 2026, in accordance with CAA section 175A.

I. Background

In 1979, under section 109 of the CAA, EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm), averaged over a 1-hour period. 44 FR 8202 (February 8, 1979). On July 18, 1997 (62 FR 38856),¹ EPA revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period. EPA set the 8-hour ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone NAAQS was set. Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the nation as attaining or not attaining the NAAQS. On April 30, 2004 (69 FR 23858), EPA designated the Charleston

Area as nonattainment for the 1997 8-hr ozone NAAQS.

Once a nonattainment area has three years of complete and certified air quality data that has been determined to attain the NAAQS, and the area has met the other criteria outlined in CAA section 107(d)(3)(E),² the state can submit a request to EPA to redesignate the area to attainment. Areas that have been redesignated by EPA from nonattainment to attainment are referred to as “maintenance areas.” One of the criteria for redesignation is to have an approved maintenance plan under CAA section 175A. The maintenance plan must demonstrate that the area will continue to maintain the standard for the period extending 10 years after redesignation, and it must contain such additional measures as necessary to ensure maintenance as well contingency measures as necessary to assure that violations of the standard will be promptly corrected.

On July 11, 2006 (71 FR 39001, effective August 10, 2006), EPA approved a redesignation request (and maintenance plan) from WVDEP for the Charleston Area. In accordance with section 175A(b), at the end of the eighth year after the effective date of the redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional 10 years.

EPA's final implementation rule for the 2008 ozone NAAQS revoked the 1997 ozone NAAQS and provided that one consequence of revocation was that areas that had been redesignated to attainment (*i.e.*, maintenance areas) for the 1997 NAAQS no longer needed to submit second 10-year maintenance plans under CAA section 175A(b).³ However, in *South Coast Air Quality Management District v. EPA*⁴ (South Coast II), the United States Court of Appeals for the District of Columbia (D.C. Circuit) vacated EPA's interpretation that, because of the revocation of the 1997 ozone standard, second maintenance plans were not required for “orphan maintenance areas,” (*i.e.*, areas like Kanawha and Putnam Counties) that had been redesignated to attainment for the 1997 NAAQS and were designated attainment for the 2008 ozone NAAQS. Thus, states

² The requirements of CAA section 107(d)(3)(E) include attainment of the NAAQS, full approval under section 110(k) of the applicable SIP, determination that improvement in air quality is a result of permanent and enforceable reductions in emissions, demonstration that the state has met all applicable section 110 and part D requirements, and a fully approved maintenance plan under CAA section 175A.

³ See 80 FR 12315 (March 6, 2015).

⁴ 882 F.3d 1138 (D.C. Cir. 2018).

¹ In March 2008, EPA completed another review of the primary and secondary ozone standards and tightened them further by lowering the level for both to 0.075 ppm. 73 FR 16436 (March 27, 2008). Additionally, in October 2015, EPA completed a review of the primary and secondary ozone standards and tightened them by lowering the level for both to 0.70 ppm. 80 FR 65292 (October 26, 2015).

with these “orphan maintenance areas” under the 1997 ozone NAAQS must submit maintenance plans for the second maintenance period.

As previously discussed, CAA section 175A sets forth the criteria for adequate maintenance plans. In addition, EPA has published longstanding guidance that provides further insight on the content of an approvable maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emissions inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan. The Calcagni memo⁵ provides that states may generally demonstrate maintenance by either performing air quality modeling to show the future mix of sources and emission rates will not cause a violation of the NAAQS or by showing that future emissions of a pollutant and its precursors will not exceed the level of emissions during a year when the area was attaining the NAAQS (*i.e.*, attainment year inventory). See Calcagni Memo at 9. EPA further clarified in three subsequent guidance memos describing “limited maintenance plans” (LMPs)⁶ that the requirements of CAA section 175A could be met by

demonstrating that the area’s design value⁷ was well below the NAAQS and that the historical stability of the area’s air quality levels showed that the area was unlikely to violate the NAAQS in the future. Specifically, EPA believes that if the most recent air quality design value for the area is at a level that is below 85% of the standard, or in this case below 0.071 ppm, then EPA considers the state to have met the section 175A requirement for a demonstration that the area will maintain the NAAQS for the requisite period. Accordingly, on December 10, 2019, WVDEP submitted a second maintenance plan for the Charleston Area, following EPA’s LMP guidance and demonstrating that the area will maintain the 1997 ozone NAAQS through August 10, 2026, *i.e.*, through the end of the 20-year maintenance period.

II. Summary of SIP Revision and EPA Analysis

WVDEP’s December 10, 2019 SIP submittal outlines a plan for continued maintenance of the 1997 ozone NAAQS which addresses the criteria set forth in the Calcagni memo as follows.

A. Attainment Emissions Inventory

A state should develop a comprehensive and accurate inventory

of actual emissions for an attainment year which identifies the level of emissions in the area which is sufficient to maintain the NAAQS. The inventory should be developed consistent with EPA’s most recent guidance. For ozone, the inventory should be based on typical summer day’s emissions of oxides of nitrogen (NO_x) and volatile organic compounds (VOC), the precursors to ozone formation. In the first maintenance plan for the Charleston Area, WVDEP used 2004 for the attainment year inventory, because 2004 was one of the years in the 2002–2004 three-year period when the area first attained the 1997 8-hour ozone NAAQS. The Charleston Area continued to monitor attainment of the 1997 8-hour ozone NAAQS in 2014. Therefore, the emissions inventory from 2014 represents emissions levels conducive to continued attainment (*i.e.*, maintenance) of the NAAQS. Thus, WVDEP is using 2014 as representing attainment level emissions for its second maintenance plan. WVDEP used 2014 summer day emissions from EPA’s 2014 version 7.0 modeling platform as the basis for the 2014 inventory presented in Table 1.⁸

TABLE 1—2014 TYPICAL SUMMER DAY VOC AND NO_x EMISSIONS
[tons/day]⁹

Area	Source category	VOC	NO _x
Kanawha County	Fire	2.18	0.15
	Nonpoint	22.23	6.17
	Nonroad	4.58	1.60
	Onroad	5.21	13.27
	Point	3.71	16.39
	Subtotal	38	38
Putnam County	Fire	0.00	0.00
	Nonpoint	4.65	2.18
	Nonroad	0.62	0.47
	Onroad	1.27	3.24
	Point	0.62	10.93
	Subtotal	7	17
Charleston Area, WV	Totals	45	54

⁵ “Procedures for Processing Requests to Redesignate Areas to Attainment,” Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni Memo).

⁶ See “Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas” from Sally L. Shaver, Office of Air Quality Planning and Standards (OAQPS), dated November 16, 1994; “Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas” from

Joseph Paisie, OAQPS, dated October 6, 1995; and “Limited Maintenance Plan Option for Moderate PM₁₀ Nonattainment Areas” from Lydia Wegman, OAQPS, dated August 9, 2001.

⁷ The ozone design value for a monitoring site is the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations. The design value for an ozone nonattainment area is the highest design value of any monitoring site in the area.

⁸ On April, 22, 2020, WVDEP submitted a clarifying letter to EPA noting that the headings in Table 4 of its submittal were inadvertently titled, “2014 Summertime Daily NO_x Emissions (tpd)” instead of “2014 Summertime Daily VOC Emissions (tpd).” EPA does not believe that this mislabeling negatively impacts proposed approval of this SIP revision.

⁹ Data in Table 1 of the preamble only includes tons/day. See Tables 3 and 4 of WVDEP’s December 10, 2019 submittal for data in tons/year.

The 2014 emissions inventory was prepared by WVDEP and uploaded into EPA's Emissions Inventory System (EIS) for inclusion in EPA's National Emission Inventory (NEI). The inventory addresses four anthropogenic emission source categories: Stationary (point) sources, stationary nonpoint (area) sources, nonroad mobile, and on-road mobile sources. Point sources are stationary sources that have the potential to emit (PTE) more than 100 tons per year (tpy) of VOC, or more than 50 tpy of NO_x, and which are required to obtain an operating permit. Data are collected for each source at a facility and reported to WVDEP.

The fire emissions sector includes emissions from agricultural burning, prescribed fires, wildfires, and other types of fires. The nonpoint emissions sector includes emissions from equipment, operations, and activities that are numerous and in total have significant emissions. Examples include emissions from commercial and consumer products, portable fuel containers, home heating, repair and refinishing operations, and crematories. The non-road emissions sector includes emissions from engines that are not primarily used to propel transportation equipment, such as generators, forklifts, and marine pleasure craft. The on-road emissions sector includes emissions from engines used primarily to propel equipment on highways and other roads, including passenger vehicles, motorcycles, and heavy-duty diesel trucks. The point source sector includes large industrial operations that are relatively few in number but have large emissions, such as kraft mills, electrical

generating units, and pharmaceutical factories. On-road mobile emissions are modelled by WVDEP using EPA's Motor Vehicle Emission Simulator (MOVES). WVDEP generates nonroad mobile source emissions data through the use of EPA's NONROAD2014a model. EPA reviewed the supporting documentation submitted by WVDEP¹⁰ and proposes to conclude that the plan's inventory is acceptable for the purposes of a subsequent maintenance plan under CAA section 175A(b).¹¹

B. Maintenance Demonstration

In order to attain the 1997 ozone NAAQS, the three-year average of the fourth-highest daily average ozone concentrations (design value, DV) at each monitor within an area must not exceed 0.08 ppm. Based on the rounding convention described in 40 CFR part 50, appendix I, the standard is attained if the DV is 0.084 or below. CAA section 175A requires a demonstration that the area will continue to maintain the NAAQS throughout the duration of the requisite maintenance period. Consistent with the prior guidance documents discussed previously in this document, EPA believes that if the most recent DV for the area is well below the NAAQS (e.g., below 85%, or in this case below 0.071 ppm), the section 175A demonstration requirement has been met, provided that Prevention of Significant Deterioration (PSD) requirements, any control measures already in the SIP, and any Federal measures remain in place through the end of the second 10-year maintenance period (absent a showing consistent with section 110(l) that such

measures are not necessary to assure maintenance).

For the purposes of demonstrating a stable or improving air quality trend, West Virginia used a weighted design value of the most recent five design values. The five most recent design values available cover the 2012–2018 ambient air monitoring data. This includes 3-year design values for 2012–2014, 2013–2015, 2014–2016, 2015–2017, and 2016–2018. Data from 2014, 2015, and 2016 was included in three out of five design values. Table 2 shows the most recent five years of ambient ozone air quality 3-year design values. These design values are from EPA's Air Quality System (AQS). The 7th column is the 5-year weighted design value calculated by West Virginia. This 5-year weighted design value was calculated by averaging all the 4th Max Ozone values from the years 2012–2018. The 8th column is the 5-year design value average calculated by EPA. The 5-year design value average is calculated by averaging the design values for 2012–2014, 2013–2015, 2014–2016, 2015–2017, and 2016–2018. Both the 5-year weighted design value calculated by West Virginia, and the 5-year design value average calculated by EPA, for the Charleston area, were calculated to be 0.067 ppm, which is below the 0.071 ppm threshold level and 79% of the NAAQS. Table 2 shows that the most recent five years of ambient ozone air quality 3-year average DVs for the Charleston Area continue to be below 85% of the 1997 ozone NAAQS. It demonstrates that 8-hour ozone air quality levels are significantly below the level of the standard.

TABLE 2—CHARLESTON AREA 8-HOUR OZONE DESIGN VALUES IN PART PER MILLION [ppm]

Site	2012–2014	2013–2015	2014–2016	2015–2017	2016–2018	5-Year weighted	5-Year design value average (ppm)	Projected 2023
Charleston, WV	0.069	0.067	0.067	0.067	0.067	0.067	0.067	0.060

For the 2023 projections shown in Table 2, EPA used a 2011-based air quality modeling platform, which includes emissions, meteorology, and other inputs for 2011 as the base year and emissions for 2023 as the future analytic year base case. Specifically, the modeling platform included a variety of data that contained information pertaining to the modeling domain and

simulation period. These include gridded, hourly emissions estimates and meteorological data, and boundary concentrations. Separate emissions inventories were prepared for the 2011 base year and the 2023 base case. All other inputs (i.e., meteorological fields, initial concentrations, and boundary concentrations) were specified for the 2011 base year model application and

remained unchanged for the future-year model simulations. The 2011 modeling platform and projected 2023 emissions were used to drive the 2011 base year and 2023 future case air quality model simulations. The 2023 projected DV for the Charleston Area is 0.060 ppm, well below the level of the 1997 8-hour ozone NAAQS, 0.08 ppm. Therefore, EPA proposes to determine that that

¹⁰ See Appendix C of WVDEP's December 10, 2019 submittal.

¹¹ The daily emissions data for 2014 typical summer day VOC and NO_x emissions in Table 1

were excerpted from: https://www.epa.gov/sites/production/files/2018-11/ozone_1997_naaqs_emiss_inv_data_nov_19_2018_0.xlsx ("2014 2028 area emiss by sector" tab) posted at <https://>

www.epa.gov/ground-level-ozone-pollution/1997-ozone-national-ambient-air-quality-standards-naaqs-nonattainment.

future violations of the NAAQS in this area are unlikely.

The 2023 design value of 0.060 ppm projected by EPA includes 2011 emissions from the Appalachian Power Company—Kanawha River Plant (54–039–00006), which was a contributor to the 2011 base year emissions used to develop the 2023 projections. This facility was permanently shut down on June 1, 2015 and Appalachian Power Company officially withdrew their air permits for the Kanawha River Plant. Therefore, the elimination of approximately 2,500 tons per year of NO_x emissions is expected to drive projected design values even lower. Other facility emission reductions are expected to occur before 2023. With this consideration, and based on EPA's 2023 projection data source, the actual design values for 2023 are expected to be lower than what EPA has projected.¹²

C. Continued Air Quality Monitoring and Verification of Continued Attainment

Once an area has been redesignated to attainment, the state remains obligated to maintain an air quality network in accordance with 40 CFR part 58, in order to verify the area's attainment status. In the December 10, 2019 submittal, West Virginia committed to maintaining an appropriate air quality monitoring network, in accordance with 40 CFR part 58. West Virginia will continue to conduct ambient ozone air quality monitoring in the area throughout the term of the maintenance plan to verify continued attainment with the 1997 8-hour ozone NAAQS and to protect any applicable PSD increments. WVDEP states that air quality measurements will be performed in accordance with appropriate regulations and guidance documents along with EPA quality assurance requirements, and monitoring procedures will be determined in accordance with 40 CFR part 58. WVDEP commits to submitting quality-assured ozone data to EPA through the AQS and ultimately certified by the WVDEP. EPA has analyzed the commitments in the plan and determined that they meet the requirements.

D. Contingency Plan

The contingency plan provisions are designed to promptly correct or prevent

a violation of the NAAQS that might occur after redesignation of an area to attainment. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must include a requirement that the state will implement all pollution control measures that were contained in the SIP before redesignation of the area to attainment. See section 175A(d) of the CAA. WVDEP's December 10, 2019 submittal outlines its adopted permanent and Federally enforceable control measures in order to regulate emission growth. The Charleston Area's control measures include the permitting regulations and PSD measures, which will remain in effect through the maintenance plan period. Air permits issued will incorporate applicable PSD, New Source Performance Standard, and National Emission Standards for Hazardous Air Pollutant requirements.

WVDEP's December 10, 2019 submittal included the required contingency plan, to be implemented in the event of NAAQS violations in the future. WVDEP has committed to adopting and implementing one or more of the following control measures within three months after verification of a monitored ozone standard violation in the Charleston Area: (1) Extend the applicability of the VOC reasonably available control technology (RACT) rule to include source categories previously excluded (e.g., wastewater treatment facilities); (2) revise permitting requirements establishing more stringent emissions control measures and/or emissions offsets; (3) implement NO_x RACT requirements if necessary; (4) develop regulations to establish plant-wide emission caps; (5) implement Stage II Vapor Recovery regulations; (6) establish a program focusing on increasing the public's understanding of air quality issues and increasing support for actions to improve the air quality; and (7) initiate voluntary local control measures (e.g., bicycle/pedestrian measures, engine idling reduction, partnership with ground freight industry, increase

compliance with open burning restrictions, and school bus engine retrofit program).

If there is indeed a violation and the DV exceeds the NAAQS, the contingency plan will be "triggered," based on the following schedule: (1) Quality assurance procedures must confirm the monitored violation within 45 days of occurrence; (2) a draft rule would be developed by the WVDEP for any regulation chosen, (3) WVDEP will adopt the selected control measure(s) as emergency rule(s) which will be implemented within six months after adoption and will file the rule(s) as legislative rule(s) for permanent authorization by the legislature; and (4) for each voluntary measure selected, the WVDEP will initiate program development with local governments within the area by the start of the following ozone season.

Furthermore, if the triennial inventories indicate emissions growth in excess of 10% of the 2011 base-year inventory or if a monitored ozone air quality exceedance pattern indicates that an ozone NAAQS violation may be imminent, WVDEP will evaluate existing control measures to ascertain if additional regulatory revisions are necessary to maintain the ozone standards.

EPA finds that West Virginia's contingency measures, as well as the commitment to continue implementing any SIP requirements, satisfy the pertinent requirements of section 175A. Importantly, while EPA notes that West Virginia's contingency measures option six (increasing public understanding) and seven (voluntary local control measures), are not enforceable measures that standing alone are likely to lead to reductions in emissions that could promptly correct a violation of the NAAQS, their inclusion among other measures that meet that criterion, is overall SIP-strengthening, and their inclusion does not alter EPA's proposal to find the LMP is fully approvable.

E. Transportation Conformity

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS (CAA 176(c)(1)(B)). EPA's conformity rule at 40 CFR part 93 requires that transportation plans, programs and projects conform to SIPs and establish the criteria and procedures for determining whether or not they conform. The conformity rule generally requires a demonstration that emissions

¹² In June 2018, EPA issued a technical support document (TSD) entitled, "Air Quality Modeling Technical Support Document for the Updated 2023 Projected Ozone Design Values". This TSD describes the air quality modeling EPA performed to projected ozone design values at individual monitoring sites to 2023.

from the Regional Transportation Plan (RTP) and the Transportation Improvement Program (TIP) are consistent with the motor vehicle emissions budget (MVEB) contained in the control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). An MVEB is defined as “that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision or maintenance plan for a certain date for the purpose of meeting reasonable further progress milestones or demonstrating attainment or maintenance of the NAAQS, for any criteria pollutant or its precursors, allocated to highway and transit vehicle use and emissions (40 CFR 93.101).”

Under the conformity rule, LMP areas may demonstrate conformity without a regional emission analysis (40 CFR 93.109(e)). However, because LMP areas are still maintenance areas, certain aspects of transportation conformity determinations still will be required for transportation plans, programs and projects. Specifically, for such determinations, RTPs, TIPs and transportation projects still will have to demonstrate that they are fiscally constrained (40 CFR 93.108), meet the criteria for consultation (40 CFR 93.105 and 40 CFR 93.112) and Transportation Control Measure implementation in the conformity rule provisions (40 CFR 93.113). Additionally, conformity determinations for RTPs and TIPs must be determined no less frequently than every four years, and conformity of plan and TIP amendments and transportation projects is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104. In addition, for projects to be approved they must come from a currently conforming RTP and TIP (40 CFR 93.114 and 93.115). The Charleston Area remains under the obligation to meet the applicable conformity requirements for the 1997 8-hour ozone NAAQS.

III. Proposed Action

EPA’s review of WVDEP’s December 10, 2019 submittal indicates it meets CAA section 175A and all applicable CAA requirements. EPA is proposing to approve the LMP for the 1997 8-hour ozone NAAQS for the Charleston Area (comprising Kanawha and Putnam Counties), as a revision to the West Virginia SIP. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

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

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

implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

Dated: June 16, 2020.

Cosmo Servidio,

Regional Administrator, Region III.

[FR Doc. 2020–13453 Filed 6–26–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2020–0195; FRL 10010–70–Region 3]

Air Plan Approval; West Virginia; 1997 8-Hour Ozone Standard Second Maintenance Plan for the West Virginia Portion of the Steubenville-Weirton, OH-WV Area Comprising Brooke and Hancock Counties

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of West Virginia. This revision pertains to the West Virginia Department of Environmental Protection’s (WVDEP) plan for maintaining the 1997 8-hour ozone national ambient air quality standards (NAAQS) for the West Virginia portion of the Steubenville-Weirton, OH-WV area (Weirton Area), comprising Brooke and Hancock Counties. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before July 29, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2020–0195 at <https://www.regulations.gov>, or via email to spielberger.susan@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any

information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Gregory Becoat, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2036. Mr. Becoat can also be reached via electronic mail at becoat.gregory@epa.gov.

SUPPLEMENTARY INFORMATION: On December 10, 2019, WVDEP submitted a revision to the West Virginia SIP to incorporate a plan for maintaining the 1997 ozone NAAQS through June 13, 2027, in accordance with CAA section 175A.¹

I. Background

In 1979, under section 109 of the CAA, EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm), averaged over a 1-hour period. 44 FR 8202 (February 8, 1979). On July 18, 1997 (62 FR 38856),² EPA revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour

period. EPA set the 8-hour ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone NAAQS was set. Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the nation as attaining or not attaining the NAAQS. On April 30, 2004 (69 FR 23858), EPA designated Steubenville-Weirton, Ohio-West Virginia (OH-WV) as nonattainment for the 1997 8-hr ozone NAAQS. The Steubenville-Weirton, OH-WV nonattainment area consists of Brooke and Hancock Counties, WV and Jefferson County, OH.

Once a nonattainment area has three years of complete and certified air quality data that has been determined to attain the NAAQS, and the area has met the other criteria outlined in CAA section 107(d)(3)(E),³ the state can submit a request to EPA to redesignate the area to attainment. Areas that have been redesignated by EPA from nonattainment to attainment are referred to as “maintenance areas.” One of the criteria for redesignation is to have an approved maintenance plan under CAA section 175A. The maintenance plan must demonstrate that the area will continue to maintain the standard for the period extending 10 years after redesignation, and it must contain such additional measures as necessary to ensure maintenance as well contingency measures as necessary to assure that violations of the standard will be promptly corrected.

On May 14, 2007 (72 FR 27060, effective June 13, 2007), EPA approved a redesignation request (and maintenance plan) from WVDEP for the Weirton Area. In accordance with section 175A(b), at the end of the eighth year after the effective date of the redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional 10 years.

EPA’s final implementation rule for the 2008 ozone NAAQS revoked the 1997 ozone NAAQS and provided that one consequence of revocation was that areas that had been redesignated to attainment (*i.e.*, maintenance areas) for the 1997 NAAQS no longer needed to

submit second 10-year maintenance plans under CAA section 175A(b).⁴ However, in *South Coast Air Quality Management District v. EPA*⁵ (South Coast II), the United States Court of Appeals for the District of Columbia (D.C. Circuit) vacated EPA’s interpretation that, because of the revocation of the 1997 ozone standard, second maintenance plans were not required for “orphan maintenance areas,” (*i.e.*, areas like Brooke and Hancock Counties) that had been redesignated to attainment for the 1997 NAAQS and were designated attainment for the 2008 ozone NAAQS. Thus, states with these “orphan maintenance areas” under the 1997 ozone NAAQS must submit maintenance plans for the second maintenance period.

As previously discussed, CAA section 175A sets forth the criteria for adequate maintenance plans. In addition, EPA has published longstanding guidance that provides further insight on the content of an approvable maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emissions inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan. The Calcagni memo⁶ provides that states may generally demonstrate maintenance by either performing air quality modeling to show the future mix of sources and emission rates will not cause a violation of the NAAQS or by showing that future emissions of a pollutant and its precursors will not exceed the level of emissions during a year when the area was attaining the NAAQS (*i.e.*, attainment year inventory). See Calcagni memo at 9. EPA further clarified in three subsequent guidance memos describing “limited maintenance plans” (LMPs) that the requirements of CAA section 175A could be met by demonstrating that the area’s design value was well below the NAAQS and that the historical stability of the area’s air quality levels showed that the area was unlikely to violate the NAAQS in the future. Specifically, EPA believes that if the most recent air quality design value for the area is at a level that is below 85% of the standard, or in this case below 0.071 ppm, then EPA considers the state to have met the section 175A requirement for a

¹ In its December 10, 2019 submittal, the State consistently refers to the Weirton Area, rather than referring to the West Virginia portion of the Steubenville-Weirton, OH-WV area. While the state’s terminology is technically incorrect, it is clear that what the State refers to as the Weirton Area is identical to the West Virginia portion of the Steubenville-Weirton, OH-WV area designated by EPA pursuant to the 1997 8-Hour ozone NAAQS. See 40 CFR 81.349.

² In March 2008, EPA completed another review of the primary and secondary ozone standards and tightened them further by lowering the level for both to 0.075 ppm. 73 FR 16436 (March 27, 2008). Additionally, in October 2015, EPA completed a review of the primary and secondary ozone standards and tightened them by lowering the level for both to 0.70 ppm. 80 FR 65292 (October 26, 2015).

³ The requirements of CAA section 107(d)(3)(E) include attainment of the NAAQS, full approval under section 110(k) of the applicable SIP, determination that improvement in air quality is a result of permanent and enforceable reductions in emissions, demonstration that the state has met all applicable section 110 and part D requirements, and a fully approved maintenance plan under CAA section 175A.

⁴ See 80 FR 12315 (March 6, 2015).

⁵ 882 F.3d 1138 (D.C. Cir. 2018).

⁶ “Procedures for Processing Requests to Redesignate Areas to Attainment,” Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni Memo).

demonstration that the area will maintain the NAAQS for the requisite period. Accordingly, on December 10, 2019, WVDEP submitted a second maintenance plan for the Weirton Area, following EPA's LMP guidance and demonstrating that the area will maintain the 1997 ozone NAAQS through June 13, 2027, *i.e.*, through the end of the 20-year maintenance period.

II. Summary of SIP Revision and EPA Analysis

WVDEP's December 10, 2019 SIP submittal outlines a plan for continued maintenance of the 1997 ozone NAAQS which addresses the criteria set forth in the Calcagni memo as follows.

A. Attainment Emissions Inventory

A state should develop a comprehensive and accurate inventory of actual emissions for an attainment year which identifies the level of emissions in the area which is sufficient to maintain the NAAQS. The inventory should be developed consistent with EPA's most recent guidance. For ozone, the inventory should be based on a typical summer day's emission of oxides of nitrogen (NO_x) and volatile organic compounds (VOC), the precursors to ozone formation. In the first maintenance plan for the Weirton Area, WVDEP used 2004 for the attainment year inventory, because 2004 was one of

the years in the 2002–2004 three-year period when the area first attained the 1997 8-hour ozone NAAQS. The Weirton Area continued to monitor attainment of the 1997 8-hour ozone NAAQS in 2014. Therefore, the emissions inventory from 2014 represents emissions levels conducive to continued attainment (*i.e.*, maintenance) of the NAAQS. Thus, WVDEP is using 2014 as representing attainment level emissions for its second maintenance plan. WVDEP used 2014 summer day emissions from EPA's 2014 version 7.0 modeling platform as the basis for the 2014 inventory presented in Table 1.

TABLE 1—2014 TYPICAL SUMMER DAY VOC AND NO_x EMISSIONS
[Tons/day]⁷

Area	Source category	VOC	NO _x
Brooke County, WV	Fire	0.00	0.0
	Nonpoint	11.47	1.0
	Nonroad	0.31	0.3
	Onroad	0.43	0.8
	Point	0.89	1.8
	Subtotal	13.11	3.9
Hancock County, WV	Fire	0.00	0.0
	Nonpoint	1.61	1.5
	Nonroad	0.44	0.3
	Onroad	0.54	0.7
	Point	0.43	1.1
	Subtotal	3.01	3.6
Jefferson County, OH	Fire	0.00	0.0
	Nonpoint	2.68	2.0
	Nonroad	1.32	0.5
	Onroad	1.35	2.4
	Point	0.82	34.6
	Subtotal	6.17	39.5
Steubenville-Weirton Area, OH-WV	Totals	22	47.0

The 2014 emissions inventory was prepared by WVDEP and uploaded into EPA's Emissions Inventory System (EIS) for inclusion in EPA's National Emission Inventory (NEI). The inventory addresses four anthropogenic emission source categories: Stationary (point) sources, stationary nonpoint (area) sources, nonroad mobile, and on-road mobile sources. Point sources are stationary sources that have the potential to emit (PTE) more than 100 tons per year (tpy) of VOC, or more than 50 tpy of NO_x, and which are required to obtain an operating permit. Data are collected for each source at a facility and reported to WVDEP.

The fire emissions sector includes emissions from agricultural burning, prescribed fires, wildfires, and other types of fires. The nonpoint emissions sector includes emissions from equipment, operations, and activities that are numerous and in total have significant emissions. Examples include emissions from commercial and consumer products, portable fuel containers, home heating, repair and refinishing operations, and crematories. The non-road emissions sector includes emissions from engines that are not primarily used to propel transportation equipment, such as generators, forklifts, and marine pleasure craft. The on-road emissions sector includes emissions from engines used primarily to propel equipment on highways and other

roads, including passenger vehicles, motorcycles, and heavy-duty diesel trucks. The point source sector includes large industrial operations that are relatively few in number but have large emissions, such as kraft mills, electrical generating units, and pharmaceutical factories. On-road mobile emissions are modelled by WVDEP using EPA's Motor Vehicle Emission Simulator (MOVES). WVDEP generates nonroad mobile source emissions data through the use of EPA's NONROAD2014a model. EPA reviewed the supporting documentation submitted by WVDEP and proposes to conclude that the plan's inventory is acceptable for the purposes of a subsequent maintenance plan under CAA section 175A(b).

⁷ Data in Table 1 only includes tons/day. See Tables 3 and 4 of WVDEP's December 10, 2019 submittal for data in tons/year.

B. Maintenance Demonstration

In order to attain the 1997 ozone NAAQS, the three-year average of the fourth-highest daily average ozone concentrations (design value, DV) at each monitor within an area must not exceed 0.08 ppm. Based on the rounding convention described in 40 CFR part 50, appendix I, the standard is attained if the DV is 0.084 or below. CAA section 175A requires a demonstration that the area will continue to maintain the NAAQS throughout the duration of the requisite maintenance period. Consistent with the prior guidance documents discussed previously in this document, EPA believes that if the most recent DV for the area is well below the NAAQS (*e.g.* below 85%, or in this case below 0.071 ppm), the section 175A demonstration requirement has been met, provided that Prevention of Significant Deterioration (PSD) requirements, any control

measures already in the SIP, and any Federal measures remain in place through the end of the second 10-year maintenance period (absent a showing consistent with section 110(l) that such measures are not necessary to assure maintenance).

For the purposes of demonstrating a stable or improving air quality trend, West Virginia used a weighted design value of the most recent five design values. The five most recent design values available cover the 2012–2018 ambient air monitoring data. This includes 3-year design values for 2012–2014, 2013–2015, 2014–2016, 2015–2017, and 2016–2018. Data from 2014, 2015, and 2016 was included in three out of five design values. Table 2 of this document shows the most recent five years of ambient ozone air quality 3-year design values. These design values are from EPA's Air Quality System (AQS). The 7th column is the 5-year weighted

design value calculated by West Virginia. This 5-year weighted design value was calculated by averaging all the 4th Max Ozone values from the years 2012–2018. The 8th column is the 5-year design value average calculated by EPA. The 5-year design value average is calculated by averaging the design values for 2012–2014, 2013–2015, 2014–2016, 2015–2017, and 2016–2018. The 5-year weighted design value calculated by West Virginia is 0.067 ppm, and the 5-year design value average calculated by EPA is 0.066 ppm, for the Weirton Area, both of which are below the 0.071 ppm threshold level and 79% of the NAAQS. Table 2 of this document shows that the most recent five years of ambient ozone air quality 3-year average DVs for the Weirton Area continue to be below 85% of the 1997 ozone NAAQS. It demonstrates that 8-hour ozone air quality levels are significantly below the level of the standard.

TABLE 2—WEIRTON AREA 8-HOUR OZONE DESIGN VALUES IN PART PER MILLION [ppm]

Site	2012–2014	2013–2015	2014–2016	2015–2017	2016–2018	5-Year weighted	5-Year design value average (ppm)	Projected 2023
Weirton, WV	0.070	0.067	0.067	0.066	0.065	0.067	0.066	0.060

For the 2023 projections shown in Table 2 of this document, EPA used a 2011-based air quality modeling platform, which includes emissions, meteorology, and other inputs for 2011 as the base year and emissions for 2023 as the future analytic year base case. Specifically, the modeling platform included a variety of data that contained information pertaining to the modeling domain and simulation period. These include gridded, hourly emissions estimates and meteorological data, and boundary concentrations. Separate emissions inventories were prepared for the 2011 base year and the 2023 base case. All other inputs (*i.e.*, meteorological fields, initial concentrations, and boundary concentrations) were specified for the 2011 base year model application and remained unchanged for the future-year model simulations. The 2011 modeling platform and projected 2023 emissions were used to drive the 2011 base year and 2023 future case air quality model simulations. The 2023 projected DV for the Weirton Area is 0.060 ppm, well below the level of the 1997 8-hour ozone NAAQS, 0.08 ppm. Therefore, EPA proposes to determine that future violations of the NAAQS in this area are unlikely.

C. Continued Air Quality Monitoring and Verification of Continued Attainment

Once an area has been redesignated to attainment, the state remains obligated to maintain an air quality network in accordance with 40 CFR part 58, in order to verify the area's attainment status. In the December 10, 2019 submittal, West Virginia committed to maintaining an appropriate air quality monitoring network, in accordance with 40 CFR part 58. West Virginia will continue to conduct ambient ozone air quality monitoring in the area throughout the term of the maintenance plan to verify continued attainment with the 1997 8-hour ozone NAAQS and to protect any applicable PSD increments. WVDEP states that air quality measurements will be performed in accordance with appropriate regulations and guidance documents along with EPA quality assurance requirements, and monitoring procedures will be determined in accordance with 40 CFR part 58. WVDEP commits to submitting quality-assured ozone data to EPA through the AQS and ultimately certified by the WVDEP. EPA has analyzed the commitments in the plan and

determined that they meet the requirements.

D. Contingency Plan

The contingency plan provisions are designed to promptly correct or prevent a violation of the NAAQS that might occur after redesignation of an area to attainment. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must include a requirement that the state will implement all pollution control measures that were contained in the SIP before redesignation of the area to attainment. See section 175A(d) of the CAA. WVDEP's December 10, 2019 submittal outlines its adopted permanent and Federally enforceable control measures in order to regulate

emission growth. The Weirton Area's control measures include the permitting regulations and PSD measures, which will remain in effect through the maintenance plan period. Air permits issued will incorporate applicable PSD, New Source Performance Standard, and National Emission Standards for Hazardous Air Pollutant requirements.

WVDEP's December 10, 2019 submittal included the required contingency plan, to be implemented in the event of NAAQS violations in the future. WVDEP has committed to adopting and implementing one or more of the following control measures within three months after verification of a monitored ozone standard violation in the Weirton Area: (1) Extend the applicability of the VOC reasonably available control technology (RACT) rule to include source categories previously excluded (*e.g.*, wastewater treatment facilities); (2) revise permitting requirements establishing more stringent emissions control measures and/or emissions offsets; (3) implement NO_x RACT requirements if necessary; (4) develop regulations to establish plant-wide emission caps; (5) implement Stage II Vapor Recovery regulations; (6) establish a program focusing on increasing the public's understanding of air quality issues and increasing support for actions to improve the air quality; and (7) initiate voluntary local control measures (*e.g.*, bicycle/pedestrian measures, engine idling reduction, partnership with ground freight industry, increase compliance with open burning restrictions, and school bus engine retrofit program).

If there is indeed a violation and the DV exceeds the NAAQS, the contingency plan will be "triggered," based on the following schedule: (1) Quality assurance procedures must confirm the monitored violation within 45 days of occurrence; (2) a draft rule would be developed by the WVDEP for any regulation chosen, (3) WVDEP will adopt the selected control measure(s) as emergency rule(s) which will be implemented within six months after adoption and will file the rule(s) as legislative rule(s) for permanent authorization by the legislature; and (4) for each voluntary measure selected, the WVDEP will initiate program development with local governments within the area by the start of the following ozone season.

Furthermore, if the triennial inventories indicate emissions growth in excess of 10% of the 2011 base-year inventory or if a monitored ozone air quality exceedance pattern indicates that an ozone NAAQS violation may be

imminent, WVDEP will evaluate existing control measures to ascertain if additional regulatory revisions are necessary to maintain the ozone standards.

EPA finds that West Virginia's contingency measures, as well as the commitment to continue implementing any SIP requirements, satisfy the pertinent requirements of section 175A. Importantly, while EPA notes that West Virginia's contingency measures option six (increasing public understanding) and seven (voluntary local control measures), are not enforceable measures that standing alone are likely to lead to reductions in emissions that could promptly correct a violation of the NAAQS, their inclusion among other measures that meet that criterion, is overall SIP-strengthening, and their inclusion does not alter EPA's proposal to find the LMP is fully approvable.

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Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS (CAA 176(c)(1)(B)). EPA's conformity rule at 40 CFR part 93 requires that transportation plans, programs and projects conform to SIPs and establish the criteria and procedures for determining whether or not they conform. The conformity rule generally requires a demonstration that emissions from the Regional Transportation Plan (RTP) and the Transportation Improvement Program (TIP) are consistent with the motor vehicle emissions budget (MVEB) contained in the control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). An MVEB is defined as "that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision or maintenance plan for a certain date for the purpose of meeting reasonable further progress milestones or demonstrating attainment or maintenance of the NAAQS, for any criteria pollutant or its precursors, allocated to highway and transit vehicle use and emissions (40 CFR 93.101)." Under the conformity rule, LMP areas may demonstrate conformity without a regional emission analysis (40 CFR 93.109(e)). However, because LMP areas are still maintenance areas, certain aspects of transportation conformity determinations still will be required for transportation plans, programs and projects. Specifically, for such

determinations, RTPs, TIPs and transportation projects still will have to demonstrate that they are fiscally constrained (40 CFR 93.108), meet the criteria for consultation (40 CFR 93.105 and 40 CFR 93.112) and Transportation Control Measure implementation in the conformity rule provisions (40 CFR 93.113). Additionally, conformity determinations for RTPs and TIPs must be determined no less frequently than every four years, and conformity of plan and TIP amendments and transportation projects is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104. In addition, for projects to be approved they must come from a currently conforming RTP and TIP (40 CFR 93.114 and 93.115). The Weirton Area remains under the obligation to meet the applicable conformity requirements for the 1997 8-hour ozone NAAQS.

III. Proposed Action

EPA's review of WVDEP's December 10, 2019 submittal indicates it meets CAA section 175A and all applicable CAA requirements. EPA is proposing to approve the LMP for the 1997 8-hour ozone NAAQS for the Weirton Area (comprising Brooke and Hancock Counties), as a revision to the West Virginia SIP. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, pertaining to West Virginia's second maintenance plan for Brooke and Hancock Counties, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

Dated: June 16, 2020.

Cosmo Servidio,

Regional Administrator, Region III.

[FR Doc. 2020–13454 Filed 6–26–20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2020–0196; FRL 10010–68–Region 3]

Air Plan Approval; West Virginia; 1997 8-Hour Ozone Standard Second Maintenance Plan for the West Virginia Portion of the Huntington-Ashland, WV-KY Area Comprising Cabell and Wayne Counties

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of West Virginia. This revision pertains to the West Virginia Department of Environmental Protection's (WVDEP) plan for maintaining the 1997 8-hour ozone national ambient air quality standards (NAAQS) for the West Virginia Portion of the Huntington-Ashland, WV-KY area (Huntington Area), comprising Cabell and Wayne Counties. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before July 29, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2020–0196 at <https://www.regulations.gov>, or via email to spielberger.susan@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on

making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Gregory Becoat, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2036. Mr. Becoat can also be reached via electronic mail at becoat.gregory@epa.gov.

SUPPLEMENTARY INFORMATION: On December 10, 2019, WVDEP submitted a revision to the West Virginia SIP to incorporate a plan for maintaining the 1997 ozone NAAQS through October 16, 2026, in accordance with CAA section 175A.¹

I. Background

In 1979, under section 109 of the CAA, EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm), averaged over a 1-hour period. 44 FR 8202 (February 8, 1979). On July 18, 1997 (62 FR 38856),² EPA revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period. EPA set the 8-hour ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone NAAQS was set. Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the nation as attaining or not attaining the NAAQS. On April 30, 2004 (69 FR 23858), EPA designated Huntington-Ashland Area, West Virginia-Kentucky (WV-KY) as nonattainment for the 1997 8-hr ozone NAAQS. The Huntington-Ashland Area, WV-KY nonattainment area consists of Cabell and Wayne Counties, WV and Boyd County, KY.

¹ In its December 10, 2019 submittal, the State consistently refers to the Huntington Area, rather than referring to the West Virginia portion of the Huntington-Ashland, WV-KY area. While the State's terminology is technically incorrect, it is clear that what the State refers to as the Huntington Area is identical to the West Virginia portion of the Huntington-Ashland, WV-KY area designated by EPA pursuant to the 1997 8-Hour ozone NAAQS. See 40 CFR 81.349.

² In March 2008, EPA completed another review of the primary and secondary ozone standards and tightened them further by lowering the level for both to 0.075 ppm. 73 FR 16436 (March 27, 2008). Additionally, in October 2015, EPA completed a review of the primary and secondary ozone standards and tightened them by lowering the level for both to 0.70 ppm. 80 FR 65292 (October 26, 2015).

Once a nonattainment area has three years of complete and certified air quality data that has been determined to attain the NAAQS, and the area has met the other criteria outlined in CAA section 107(d)(3)(E),³ the state can submit a request to EPA to redesignate the area to attainment. Areas that have been redesignated by EPA from nonattainment to attainment are referred to as “maintenance areas.” One of the criteria for redesignation is to have an approved maintenance plan under CAA section 175A. The maintenance plan must demonstrate that the area will continue to maintain the standard for the period extending 10 years after redesignation, and it must contain such additional measures as necessary to ensure maintenance as well contingency measures as necessary to assure that violations of the standard will be promptly corrected.

On September 15, 2006 (71 FR 54421, effective October 16, 2006), EPA approved a redesignation request (and maintenance plan) from WVDEP for the Huntington Area. In accordance with section 175A(b), at the end of the eighth year after the effective date of the redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional 10 years.

EPA’s final implementation rule for the 2008 ozone NAAQS revoked the 1997 ozone NAAQS and provided that one consequence of revocation was that areas that had been redesignated to attainment (*i.e.*, maintenance areas) for the 1997 NAAQS no longer needed to submit second 10-year maintenance plans under CAA section 175A(b).⁴ However, in *South Coast Air Quality Management District v. EPA*⁵ (South Coast II), the United States Court of Appeals for the District of Columbia (D.C. Circuit) vacated EPA’s interpretation that, because of the revocation of the 1997 ozone standard, second maintenance plans were not required for “orphan maintenance

areas,” (*i.e.*, areas like Cabell and Wayne Counties) that had been redesignated to attainment for the 1997 NAAQS and were designated attainment for the 2008 ozone NAAQS. Thus, states with these “orphan maintenance areas” under the 1997 ozone NAAQS must submit maintenance plans for the second maintenance period.

As previously discussed, CAA section 175A sets forth the criteria for adequate maintenance plans. In addition, EPA has published longstanding guidance that provides further insight on the content of an approvable maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emissions inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan. The Calcagni memo⁶ provides that states may generally demonstrate maintenance by either performing air quality modeling to show the future mix of sources and emission rates will not cause a violation of the NAAQS or by showing that future emissions of a pollutant and its precursors will not exceed the level of emissions during a year when the area was attaining the NAAQS (*i.e.*, attainment year inventory). See Calcagni memo at 9. EPA further clarified in three subsequent guidance memos describing “limited maintenance plans” (LMPs)⁷ that the requirements of CAA section 175A could be met by demonstrating that the area’s design value⁸ was well below the NAAQS and that the historical stability of the area’s air quality levels showed that the area was unlikely to violate the NAAQS in

the future. Specifically, EPA believes that if the most recent air quality design value for the area is at a level that is below 85% of the standard, or in this case below 0.071 ppm, then EPA considers the state to have met the section 175A requirement for a demonstration that the area will maintain the NAAQS for the requisite period. Accordingly, on December 10, 2019, WVDEP submitted a second maintenance plan for the Huntington Area, following EPA’s LMP guidance and demonstrating that the area will maintain the 1997 ozone NAAQS through October 16, 2026, *i.e.*, to the end of the 20-year maintenance period.

II. Summary of SIP Revision and EPA Analysis

WVDEP’s December 10, 2019 SIP submittal outlines a plan for continued maintenance of the 1997 ozone NAAQS which addresses the criteria set forth in the Calcagni memo as follows.

A. Attainment Emissions Inventory

A state should develop a comprehensive and accurate inventory of actual emissions for an attainment year which identifies the level of emissions in the area which is sufficient to maintain the NAAQS. The inventory should be developed consistent with EPA’s most recent guidance. For ozone, the inventory should be based on typical summer day’s emissions of oxides of nitrogen (NO_x) and volatile organic compounds (VOC), the precursors to ozone formation. In the first maintenance plan for the Huntington Area, WVDEP used 2004 for the attainment year inventory, because 2004 was one of the years in the 2002–2004 three-year period when the area first attained the 1997 8-hour ozone NAAQS. The Huntington Area continued to monitor attainment of the 1997 8-hour ozone NAAQS in 2014. Therefore, the emissions inventory from 2014 represents emissions levels conducive to continued attainment (*i.e.*, maintenance) of the NAAQS. Thus, WVDEP is using 2014 as representing attainment level emissions for its second maintenance plan. WVDEP used 2014 summer day emissions from EPA’s 2014 version 7.0 modeling platform as the basis for the 2014 inventory presented in Table 1.

³ The requirements of CAA section 107(d)(3)(E) include attainment of the NAAQS, full approval under section 110(k) of the applicable SIP, determination that improvement in air quality is a result of permanent and enforceable reductions in emissions, demonstration that the state has met all applicable section 110 and part D requirements, and a fully approved maintenance plan under CAA section 175A.

⁴ See 80 FR 12315 (March 6, 2015).

⁵ 882 F.3d 1138 (D.C. Cir. 2018).

⁶ “Procedures for Processing Requests to Redesignate Areas to Attainment,” Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni Memo).

⁷ See “Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas” from Sally L. Shaver, Office of Air Quality Planning and Standards (OAQPS), dated November 16, 1994; “Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas” from Joseph Paisie, OAQPS, dated October 6, 1995; and “Limited Maintenance Plan Option for Moderate PM₁₀ Nonattainment Areas” from Lydia Wegman, OAQPS, dated August 9, 2001.

⁸ The ozone design value for a monitoring site is the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations. The design value for an ozone nonattainment area is the highest design value of any monitoring site in the area.

TABLE 1—2014 TYPICAL SUMMER DAY VOC AND NO_x EMISSIONS
[Tons/day]⁹

Area	Source category	VOC	NO _x
Cabell County, WV	Fire	0.00	0.0
	Nonpoint	4.6	3.6
	Nonroad	2	0.7
	Onroad	2	4.7
	Point	0.5	0.8
	Subtotal	9.2	9.7
Wayne County, WV	Fire	0.3	0.0
	Nonpoint	4.6	3.7
	Nonroad	0.5	0.3
	Onroad	0.7	1.6
	Point	0.6	2.8
	Subtotal	6.7	8.5
Boyd County, KY	Fire	0.1	0.0
	Nonpoint	2.1	1.1
	Nonroad	0.3	0.3
	Onroad	1.5	2.8
	Point	2.3	7.6
	Subtotal	6.3	11.9
Huntington-Ashland Area, WV-KY	Totals	22.3	30.1

The 2014 emissions inventory was prepared by WVDEP and uploaded into EPA's Emissions Inventory System (EIS) for inclusion in EPA's National Emission Inventory (NEI). The inventory addresses four anthropogenic emission source categories: stationary (point) sources, stationary nonpoint (area) sources, nonroad mobile, and on-road mobile sources. Point sources are stationary sources that have the potential to emit (PTE) more than 100 tons per year (tpy) of VOC, or more than 50 tpy of NO_x, and which are required to obtain an operating permit. Data are collected for each source at a facility and reported to WVDEP.

The fire emissions sector includes emissions from agricultural burning, prescribed fires, wildfires, and other types of fires. The nonpoint emissions sector includes emissions from equipment, operations, and activities that are numerous and in total have significant emissions. Examples include emissions from commercial and consumer products, portable fuel containers, home heating, repair and refinishing operations, and crematories. The non-road emissions sector includes emissions from engines that are not primarily used to propel transportation equipment, such as generators, forklifts, and marine pleasure craft. The on-road emissions sector includes emissions

from engines used primarily to propel equipment on highways and other roads, including passenger vehicles, motorcycles, and heavy-duty diesel trucks. The point source sector includes large industrial operations that are relatively few in number but have large emissions, such as kraft mills, electrical generating units, and pharmaceutical factories. On-road mobile emissions are modelled by WVDEP using EPA's Motor Vehicle Emission Simulator (MOVES). WVDEP generates nonroad mobile source emissions data through the use of EPA's NONROAD2014a model. EPA reviewed the supporting documentation submitted by WVDEP¹⁰ and proposes to conclude that the plan's inventory is acceptable for the purposes of a subsequent maintenance plan under CAA section 175A(b).¹¹

B. Maintenance Demonstration

In order to attain the 1997 ozone NAAQS, the three-year average of the fourth-highest daily average ozone concentrations (design value, DV) at each monitor within an area must not exceed 0.08 ppm. Based on the

rounding convention described in 40 CFR part 50, appendix I, the standard is attained if the DV is 0.084 or below. CAA section 175A requires a demonstration that the area will continue to maintain the NAAQS throughout the duration of the requisite maintenance period. Consistent with the prior guidance documents discussed previously in this notice, EPA believes that if the most recent DV for the area is well below the NAAQS (e.g., below 85%, or in this case below 0.071 ppm), the section 175A demonstration requirement has been met, provided that Prevention of Significant Deterioration (PSD) requirements, any control measures already in the SIP, and any Federal measures remain in place through the end of the second 10-year maintenance period (absent a showing consistent with section 110(l) that such measures are not necessary to assure maintenance).

For the purposes of demonstrating a stable or improving air quality trend, West Virginia used a weighted design value of the most recent five design values. The five most recent design values available cover the 2012–2018 ambient air monitoring data. This includes 3-year design values for 2012–2014, 2013–2015, 2014–2016, 2015–2017, and 2016–2018. Data from 2014, 2015, and 2016 was included in three out of five design values. Table 2 shows the most recent five years of ambient ozone air quality 3-year design values. These design values are from EPA's Air

⁹Data in Table 1 of the preamble only includes tons/day. See Tables 3 and 4 of WVDEP's December 10, 2019 submittal for data in tons/year.

¹⁰ See Appendix C of WVDEP's December 10, 2019 submittal.

¹¹ The daily emissions data for 2014 typical summer day VOC and NO_x emissions in Table 1 were excerpted from: https://www.epa.gov/sites/production/files/2018-11/ozone_1997_naaqs_emiss_inv_data_nov_19_2018_0.xlsx ("2014 2028 area emiss by sector" tab) posted at <https://www.epa.gov/ground-level-ozone-pollution/1997-ozone-national-ambient-air-quality-standards-naaqs-nonattainment>.

Quality System (AQS). The 7th column is the 5-year weighted design value calculated by West Virginia. This 5-year weighted design value was calculated by averaging all the 4th Max Ozone values from the years 2012–2018. The 8th column is the 5-year design value average calculated by EPA. The 5-year design value average is calculated by

averaging the design values for 2012–2014, 2013–2015, 2014–2016, 2015–2017, and 2016–2018. The 5-year weighted design value calculated by West Virginia is 0.065 ppm and the 5-year design value average calculated by EPA, for the Huntington area is 0.063 ppm, both of which are below the 0.071 ppm threshold level and 79% of the

NAAQS. Table 2 shows that the most recent five years of ambient ozone air quality 3-year average DVs for the Huntington Area continue to be below 85% of the 1997 ozone NAAQS. It demonstrates that 8-hour ozone air quality levels are significantly below the level of the standard.

TABLE 2—HUNTINGTON AREA 8-HOUR OZONE DESIGN VALUES IN PART PER MILLION [ppm]

Site	2012–2014	2013–2015	2014–2016	2015–2017	2016–2018	5-Year weighted	5-Year design value average (ppm)	Projected 2023
Huntington, WV	0.065	0.062	0.064	0.064	0.064	0.065	0.063	0.060

For the 2023 projections shown in Table 2, EPA used a 2011-based air quality modeling platform, which includes emissions, meteorology, and other inputs for 2011 as the base year and emissions for 2023 as the future analytic year base case. Specifically, the modeling platform included a variety of data that contained information pertaining to the modeling domain and simulation period. These include gridded, hourly emissions estimates and meteorological data, and boundary concentrations. Separate emissions inventories were prepared for the 2011 base year and the 2023 base case. All other inputs (*i.e.* meteorological fields, initial concentrations, and boundary concentrations) were specified for the 2011 base year model application and remained unchanged for the future-year model simulations. The 2023 projected DV for the Huntington Area is 0.060 ppm, well below the level of the 1997 8-hour ozone NAAQS, 0.08 ppm. Therefore, EPA proposes to determine that that future violations of the NAAQS in this area are unlikely.

C. Continued Air Quality Monitoring and Verification of Continued Attainment

Once an area has been redesignated to attainment, the state remains obligated to maintain an air quality network in accordance with 40 CFR part 58, in order to verify the area's attainment status. In the December 10, 2019 submittal, West Virginia committed to maintaining an appropriate air quality monitoring network, in accordance with 40 CFR part 58. West Virginia will continue to conduct ambient ozone air quality monitoring in the area throughout the term of the maintenance plan to verify continued attainment with the 1997 8-hour ozone NAAQS and to protect any applicable PSD increments. WVDEP states that air

quality measurements will be performed in accordance with appropriate regulations and guidance documents along with EPA quality assurance requirements, and monitoring procedures will be determined in accordance with 40 CFR part 58. WVDEP commits to submitting quality-assured ozone data to EPA through the AQS and ultimately certified by the WVDEP. EPA has analyzed the commitments in the plan and determined that they meet the requirements.

D. Contingency Plan

The contingency plan provisions are designed to promptly correct or prevent a violation of the NAAQS that might occur after redesignation of an area to attainment. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must include a requirement that the state will implement all pollution control measures that were contained in the SIP before redesignation of the area to attainment. See section 175A(d) of the CAA. WVDEP's December 10, 2019 submittal outlines its adopted permanent and Federally enforceable control measures in order to regulate emission growth. The Huntington Area's control measures include the permitting regulations and PSD measures, which

will remain in effect through the maintenance plan period. Air permits issued will incorporate applicable PSD, New Source Performance Standard, and National Emission Standards for Hazardous Air Pollutant requirements.

WVDEP's December 10, 2019 submittal included the required contingency plan, to be implemented in the event of NAAQS violations in the future. WVDEP has committed to adopting and implementing one or more of the following control measures within three months after verification of a monitored ozone standard violation in the Huntington Area: (1) Extend the applicability of the VOC reasonably available control technology (RACT) rule to include source categories previously excluded (*e.g.*, wastewater treatment facilities); (2) revise permitting requirements establishing more stringent emissions control measures and/or emissions offsets; (3) implement NO_x RACT requirements if necessary; (4) develop regulations to establish plant-wide emission caps; (5) implement Stage II Vapor Recovery regulations; (6) establish a program focusing on increasing the public's understanding of air quality issues and increasing support for actions to improve the air quality; and (7) initiate voluntary local control measures (*e.g.*, bicycle/pedestrian measures, engine idling reduction, partnership with ground freight industry, increase compliance with open burning restrictions, and school bus engine retrofit program).

If there is indeed a violation and the DV exceeds the NAAQS, the contingency plan will be "triggered," based on the following schedule: (1) Quality assurance procedures must confirm the monitored violation within 45 days of occurrence; (2) a draft rule would be developed by the WVDEP for any regulation chosen, (3) WVDEP will

adopt the selected control measure(s) as emergency rule(s) which will be implemented within six months after adoption and will file the rule(s) as legislative rule(s) for permanent authorization by the legislature; and (4) for each voluntary measure selected, the WVDEP will initiate program development with local governments within the area by the start of the following ozone season.

Furthermore, if the triennial inventories indicate emissions growth in excess of 10% of the 2011 base-year inventory or if a monitored ozone air quality exceedance pattern indicates that an ozone NAAQS violation may be imminent, WVDEP will evaluate existing control measures to ascertain if additional regulatory revisions are necessary to maintain the ozone standards.

EPA finds that West Virginia's contingency measures, as well as the commitment to continue implementing any SIP requirements, satisfy the pertinent requirements of section 175A. Importantly, while EPA notes that West Virginia's contingency measures option six (increasing public understanding) and seven (voluntary local control measures), are not enforceable measures that standing alone are likely to lead to reductions in emissions that could promptly correct a violation of the NAAQS, their inclusion among other measures that meet that criterion, is overall SIP-strengthening, and their inclusion does not alter EPA's proposal to find the LMP is fully approvable.

E. Transportation Conformity

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS (CAA 176(c)(1)(B)). EPA's conformity rule at 40 CFR part 93 requires that transportation plans, programs and projects conform to SIPs and establish the criteria and procedures for determining whether or not they conform. The conformity rule generally requires a demonstration that emissions from the Regional Transportation Plan (RTP) and the Transportation Improvement Program (TIP) are consistent with the motor vehicle emissions budget (MVEB) contained in the control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). An MVEB is defined as "that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision or

maintenance plan for a certain date for the purpose of meeting reasonable further progress milestones or demonstrating attainment or maintenance of the NAAQS, for any criteria pollutant or its precursors, allocated to highway and transit vehicle use and emissions (40 CFR 93.101)." Under the conformity rule, LMP areas may demonstrate conformity without a regional emission analysis (40 CFR 93.109(e)). However, because LMP areas are still maintenance areas, certain aspects of transportation conformity determinations still will be required for transportation plans, programs and projects. Specifically, for such determinations, RTPs, TIPs and transportation projects still will have to demonstrate that they are fiscally constrained (40 CFR 93.108), meet the criteria for consultation (40 CFR 93.105 and 40 CFR 93.112) and Transportation Control Measure implementation in the conformity rule provisions (40 CFR 93.113). Additionally, conformity determinations for RTPs and TIPs must be determined no less frequently than every four years, and conformity of plan and TIP amendments and transportation projects is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104. In addition, for projects to be approved they must come from a currently conforming RTP and TIP (40 CFR 93.114 and 93.115). The Huntington Area remains under the obligation to meet the applicable conformity requirements for the 1997 8-hour ozone NAAQS.

III. Proposed Action

EPA's review of WVDEP's December 10, 2019 submittal indicates it meets CAA section 175A and all applicable CAA requirements. EPA is proposing to approve the LMP for the 1997 8-hour ozone NAAQS for the Huntington Area (comprising Cabell and Wayne Counties), as a revision to the West Virginia SIP. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

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

those imposed by state law. For that reason, this proposed action:

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

In addition, this proposed rule, pertaining to West Virginia's second maintenance plan for Cabell and Wayne Counties, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

Dated: June 16, 2020.

Cosmo Servidio,

Regional Administrator, Region III.

[FR Doc. 2020–13510 Filed 6–26–20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2020–0255; FRL–10011–23–Region 1]

Air Plan Approval; Connecticut; Control of Particulate Matter and Visible Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Connecticut. This revision amends a Connecticut air-quality regulation for controlling particulate matter (PM) and visible emissions. The intended effect of this action is to define the process industries and activities to which this regulation applies, and to make technical corrections to an emission-rate calculation method. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before July 29, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2020–0255 at <https://www.regulations.gov>, or via email to simcox.alison@epa.gov. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy,

information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID–19.

FOR FURTHER INFORMATION CONTACT:

Alison C. Simcox, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square—Suite 100, (Mail code 05–2), Boston, MA 02109–3912, tel. (617) 918–1684, email simcox.alison@epa.gov.

SUPPLEMENTARY INFORMATION:

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

Table of Contents

- I. Background and Purpose
- II. EPA's Evaluation of Connecticut's Regulation
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- IV. Incorporation by Reference
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I. Background and Purpose

On October 19, 2018, the Connecticut Department of Energy and Environmental Protection (DEEP) submitted a revision to its State Implementation Plan (SIP) for amendments to Regulations of Connecticut State Agencies (RCSA) section 22a–174–18, Control of particulate matter (PM) and visible emissions. The revision consists of amendments to subsections (c), (f), and (j) to define the process industries and activities to which this regulation applies, to make technical corrections to an emission-rate calculation method, and to make minor, non-substantive modifications in regulatory language.

II. EPA's Evaluation of Connecticut's Regulation

Background

Connecticut first adopted regulations to limit PM and visible emissions from stationary sources, including among other sources, electric generating units (EGUs) and boilers, in the early 1970s. In 1972, EPA approved “Control of particulate emissions,” into the Connecticut SIP. *See* 37 FR 10842. That

regulation has since been recodified as Regulations of Connecticut State Agencies (RCSA) section 22a–174–18.

The most recent amendments to section 22a–174–18 were submitted by CT DEEP on December 1, 2004 and approved into the Connecticut SIP on July 16, 2014. *See* 79 FR 41427. Those amendments updated the State's visible emissions standards. Details of the State's December 2004 SIP submittal and the rationale for EPA's approval are explained in the August 15, 2013, notice proposed of rulemaking (NPRM). *See* 78 FR 49701. *See* Section II of that NPRM for a brief discussion of the relationships among “visible emissions,” “opacity” and “particulate matter.”

2018 Amendments to RCSA Section 22a–174–18

On October 19, 2018, Connecticut submitted to EPA revisions to RCSA section 22a–174–18. These revisions, which became effective in Connecticut on August 3, 2018, consist of revisions to subsections (c), (f), and (j) of RCSA section 22a–174–18 regarding the control of emissions of particulate matter from process industries. The revisions modify language and correct errors in the State's 2004 revision of RCSA section 22a–174–18, which was approved by EPA on July 16, 2014. *See* 79 FR 41427.

Specifically, the revisions clarify the types of industrial activities regulated by subsection (f) by adding a definition of “process industry” in subsection (f).¹ The revisions also simplify the method used in subsection (f) to calculate the allowable emission rate for process industries, clarify in subsection (c) that process industries subject to subsection (f) are not subject to subsection (c), and make minor, non-substantive changes in language to subsection (j).²

EPA has determined that Connecticut's revisions to RCSA section 22a–174–18 are clarifications and corrections that improve the State's ability to implement the regulation. In addition, the submitted revisions to subsection (j) are non-substantive (*e.g.*, changing “subdivision” to “subsection”). These revisions do not

¹ The definition of “process industry” is given as “a business that is primarily concerned with processing of bulk material into other products.” The revisions also define “bulk material” as dry material, such as, but not limited to, ore, coal, cereal, wood, sand, gravel or stone in loose, bulk form.”

² We note that as a matter of state law, Connecticut has also removed certain language from subsections (j)(1) and (2) in order to conform state law to the existing SIP. The removal of such language as a matter of state law has no impact on the Connecticut SIP or this action.

result in any substantive change to the EPA-approved subsection (j). Therefore, EPA proposes to approve into the Connecticut SIP the revisions to subsections (c), (f), and (j) that CT DEEP submitted on October 19, 2018.

III. Proposed Action

EPA is proposing to approve, and incorporate into the Connecticut SIP, the revisions to subsections (c), (f), and (j) of RCSA section 22a–174–18, *Control of Particulate Matter and Visible Emissions*, effective on August 3, 2018, submitted to EPA on October 19, 2018.

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register**.

IV. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference into the Connecticut SIP the Connecticut regulation referenced in Section III above. The EPA has made, and will continue to make, these documents generally available through <https://www.regulations.gov> and at the EPA Region 1 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 Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

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

- Is not expected to be an Executive Order 13771 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 Clean Air Act; 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).

List of Subjects in 40 CFR Part 52

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

Dated: June 18, 2020.

Dennis Deziel,

Regional Administrator, EPA Region 1.

[FR Doc. 2020–13636 Filed 6–26–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2020–0198; FRL 10010–71–Region 3]

Air Plan Approval; West Virginia; 1997 8-Hour Ozone Standard Second Maintenance Plan for the West Virginia Portion of the Wheeling, WV-OH Area Comprising Marshall and Ohio Counties

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of West Virginia. This revision pertains to the West Virginia Department of Environmental Protection's (WVDEP) plan for maintaining the 1997 8-hour ozone national ambient air quality standards (NAAQS) for the West Virginia portion of the Wheeling, WV-OH area (Wheeling Area), comprising Marshall and Ohio Counties). This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before July 29, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2020–0198 at <https://www.regulations.gov>, or via email to spielberger.susan@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit

<https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Gregory Becoat, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2036. Mr. Becoat can also be reached via electronic mail at becoat.gregory@epa.gov.

SUPPLEMENTARY INFORMATION: On December 10, 2019, WVDEP submitted a revision to the West Virginia SIP to incorporate a plan for maintaining the 1997 ozone NAAQS through June 14, 2027, in accordance with CAA section 175A.¹

I. Background

In 1979, under section 109 of the CAA, EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm), averaged over a 1-hour period. 44 FR 8202 (February 8, 1979). On July 18, 1997 (62 FR 38856),² EPA revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period. EPA set the 8-hour ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone NAAQS was set. Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the nation as attaining or not attaining the NAAQS. On April 30, 2004 (69 FR 23858), EPA designated Wheeling Area, West Virginia-Ohio (WV-OH), as nonattainment for the 1997 8-hr ozone NAAQS. The Wheeling Area, WV-OH nonattainment area consists of Marshall and Ohio Counties, WV and Belmont County, OH.

Once a nonattainment area has three years of complete, certified air quality

data that has been determined to attain the NAAQS, and the area has met the other criteria outlined in CAA section 107(d)(3)(E),³ the state can submit a request to EPA to redesignate the area to attainment. Areas that have been redesignated by EPA from nonattainment to attainment are referred to as “maintenance areas.” One of the criteria for redesignation is to have an approved maintenance plan under CAA section 175A. The maintenance plan must demonstrate that the area will continue to maintain the standard for the period extending 10 years after redesignation, and it must contain such additional measures as necessary to ensure maintenance as well contingency measures as necessary to assure that violations of the standard will be promptly corrected.

On May 15, 2007 (72 FR 27247, effective June 14, 2007), EPA approved a redesignation request (and maintenance plan) from WVDEP for the Wheeling Area. In accordance with section 175A(b), at the end of the eighth year after the effective date of the redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional 10 years.

EPA’s final implementation rule for the 2008 ozone NAAQS revoked the 1997 ozone NAAQS and provided that one consequence of revocation was that areas that had been redesignated to attainment (*i.e.*, maintenance areas) for the 1997 NAAQS no longer needed to submit second 10-year maintenance plans under CAA section 175A(b).⁴ However, in *South Coast Air Quality Management District v. EPA*⁵ (South Coast II), the United States Court of Appeals for the District of Columbia (D.C. Circuit) vacated EPA’s interpretation that, because of the revocation of the 1997 ozone standard, second maintenance plans were not required for “orphan maintenance areas,” (*i.e.*, areas like Marshall and Ohio Counties) that had been redesignated to attainment for the 1997 NAAQS and were designated attainment for the 2008 ozone NAAQS. Thus, states with these “orphan maintenance areas” under the 1997 ozone NAAQS must

submit maintenance plans for the second maintenance period.

As previously discussed, CAA section 175A sets forth the criteria for adequate maintenance plans. In addition, EPA has published longstanding guidance that provides further insight on the content of an approvable maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emissions inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan. The Calcagni memo⁶ provides that states may generally demonstrate maintenance by either performing air quality modeling to show the future mix of sources and emission rates will not cause a violation of the NAAQS or by showing that future emissions of a pollutant and its precursors will not exceed the level of emissions during a year when the area was attaining the NAAQS (*i.e.*, attainment year inventory). See Calcagni memo at 9. EPA further clarified in three subsequent guidance memos describing “limited maintenance plans” (LMPs)⁷ that the requirements of CAA section 175A could be met by demonstrating that the area’s design value⁸ was well below the NAAQS and that the historical stability of the area’s air quality levels showed that the area was unlikely to violate the NAAQS in the future. Specifically, EPA believes that if the most recent air quality design value for the area is at a level that is below 85% of the standard, or in this case below 0.071 ppm, then EPA considers the state to have met the section 175A requirement for a demonstration that the area will maintain the NAAQS for the requisite period. Accordingly, on December 10, 2019, WVDEP submitted a second maintenance plan LMP for the Wheeling Area, following EPA’s LMP guidance and demonstrating that the area will

¹ In its December 10, 2019 submittal, the State consistently refers to the Wheeling Area, rather than referring to the West Virginia portion of the Wheeling, WV-OH area. While the state’s terminology is technically incorrect, it is clear that what the State refers to as the Wheeling Area is identical to the West Virginia portion of the Wheeling, WV-OH area designated by EPA pursuant to the 1997 8-Hour ozone NAAQS. See 40 CFR 81.349.

² In March 2008, EPA completed another review of the primary and secondary ozone standards and tightened them further by lowering the level for both to 0.075 ppm. 73 FR 16436 (March 27, 2008). Additionally, in October 2015, EPA completed a review of the primary and secondary ozone standards and tightened them by lowering the level for both to 0.70 ppm. 80 FR 65292 (October 26, 2015).

³ The requirements of CAA section 107(d)(3)(E) include attainment of the NAAQS, full approval under section 110(k) of the applicable SIP, determination that improvement in air quality is a result of permanent and enforceable reductions in emissions, demonstration that the state has met all applicable section 110 and part D requirements, and a fully approved maintenance plan under CAA section 175A.

⁴ See 80 FR 12315 (March 6, 2015).

⁵ 882 F.3d 1138 (D.C. Cir. 2018).

⁶ “Procedures for Processing Requests to Redesignate Areas to Attainment,” Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni Memo).

⁷ See “Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas” from Sally L. Shaver, Office of Air Quality Planning and Standards (OAQPS), dated November 16, 1994; “Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas” from Joseph Paisie, OAQPS, dated October 6, 1995; and “Limited Maintenance Plan Option for Moderate PM₁₀ Nonattainment Areas” from Lydia Wegman, OAQPS, dated August 9, 2001.

⁸ The ozone design value for a monitoring site is the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations. The design value for an ozone nonattainment area is the highest design value of any monitoring site in the area.

maintain the 1997 ozone NAAQS through June 14, 2027, *i.e.*, through the end of the 20-year maintenance period.

II. Summary of SIP Revision and EPA Analysis

WVDEP's December 10, 2019 SIP submittal outlines a plan for continued maintenance of the 1997 ozone NAAQS which addresses the criteria set forth in the Calcagni memo as follows.

A. Attainment Emissions Inventory

A state should develop a comprehensive and accurate inventory of actual emissions for an attainment

year which identifies the level of emissions in the area which is sufficient to maintain the NAAQS. The inventory should be developed consistent with EPA's most recent guidance. For ozone, the inventory should be based on typical summer day's emissions of oxides of nitrogen (NO_x) and volatile organic compounds (VOC), the precursors to ozone formation. In the first maintenance plan for the Wheeling Area, WVDEP used 2004 for the attainment year inventory, because 2004 was one of the years in the 2002–2004 three-year period when the area first

attained the 1997 8-hour ozone NAAQS. The Wheeling Area continued to monitor attainment of the 1997 8-hour ozone NAAQS in 2014. Therefore, the emissions inventory from 2014 represents emissions levels conducive to continued attainment (*i.e.*, maintenance) of the NAAQS. Thus, WVDEP is using 2014 as representing attainment level emissions for its second maintenance plan. WVDEP used 2014 summer day emissions from EPA's 2014 version 7.0 modeling platform as the basis for the 2014 inventory presented in Table 1.⁹

TABLE 1—2014 TYPICAL SUMMER DAY VOC AND NO_x EMISSIONS
[tons/day]¹⁰

Area	Source category	VOC	NO _x
Marshall County, WV	Fire	0.5	0.0
	Nonpoint	19.1	3.2
	Nonroad	0.4	0.5
	Onroad	0.6	4.1
	Point	1.0	0.0
	Subtotal	21.6	7.9
Ohio County, WV	Fire	0.0	0.0
	Nonpoint	1.8	2.1
	Nonroad	1.0	0.3
	Onroad	1.7	1.0
	Point	0.1	24.4
	Subtotal	4.7	27.9
Belmont County, OH	Fire	0.0	0.0
	Nonpoint	6.2	0.6
	Nonroad	1.3	0.4
	Onroad	2.0	3.4
	Point	0.2	0.2
	Subtotal	9.7	4.6
Wheeling Area, WV–OH	Totals	35.9	40.4

The 2014 emissions inventory was prepared by WVDEP and uploaded into EPA's Emissions Inventory System (EIS) for inclusion in EPA's National Emission Inventory (NEI). The inventory addresses four anthropogenic emission source categories: Stationary (point) sources, stationary nonpoint (area) sources, nonroad mobile, and on-road mobile sources. Point sources are stationary sources that have the potential to emit (PTE) more than 100 tons per year (tpy) of VOC, or more than 50 tpy of NO_x, and which are required to obtain an operating permit. Data are collected for each source at a facility and reported to WVDEP.

The fire emissions sector includes emissions from agricultural burning, prescribed fires, wildfires, and other types of fires. The nonpoint emissions sector includes emissions from equipment, operations, and activities that are numerous and in total have significant emissions. Examples include emissions from commercial and consumer products, portable fuel containers, home heating, repair and refinishing operations, and crematories. The non-road emissions sector includes emissions from engines that are not primarily used to propel transportation equipment, such as generators, forklifts, and marine pleasure craft. The on-road emissions sector includes emissions

from engines used primarily to propel equipment on highways and other roads, including passenger vehicles, motorcycles, and heavy-duty diesel trucks. The point source sector includes large industrial operations that are relatively few in number but have large emissions, such as kraft mills, electrical generating units, and pharmaceutical factories. On-road mobile emissions are modelled by WVDEP using EPA's Motor Vehicle Emission Simulator (MOVES). WVDEP generates nonroad mobile source emissions data through use of EPA's NONROAD2014a model. EPA reviewed the supporting documentation

⁹ On April 22, 2020, WVDEP submitted a clarifying letter to EPA noting that the headings in Table 4 of its submittal were inadvertently titled, "2014 Summertime Daily NO_x Emissions (tpd)"

instead of "2014 Summertime Daily VOC Emissions (tpd)." EPA does not believe that this mislabeling negatively impacts proposed approval of this SIP revision.

¹⁰ Data in Table 1 only includes tons/day. See Tables 3 and 4 of WVDEP's December 10, 2019 submittal for data in tons/year.

submitted by WVDEP¹¹ and proposes to conclude that the plan's inventory is acceptable for the purposes of a subsequent maintenance plan under CAA section 175A(b).¹²

B. Maintenance Demonstration

In order to attain the 1997 ozone NAAQS, the three-year average of the fourth-highest daily average ozone concentrations (design value, DV) at each monitor within an area must not exceed 0.08 ppm. Based on the rounding convention described in 40 CFR part 50, appendix I, the standard is attained if the DV is 0.084 or below. CAA section 175A requires a demonstration that the area will continue to maintain the NAAQS throughout the duration of the requisite maintenance period. Consistent with the prior guidance documents discussed previously in this document, EPA believes that if the most recent DV for the area is well below the NAAQS (*e.g.* below 85%, or in this case below 0.071 ppm), the section 175A demonstration

requirement has been met, provided that Prevention of Significant Deterioration (PSD) requirements, any control measures already in the SIP, and any Federal measures remain in place through the end of the second 10-year maintenance period (absent a showing consistent with section 110(l) that such measures are not necessary to assure maintenance).

For the purposes of demonstrating a stable or improving air quality trend, West Virginia used a weighted design value of the most recent five design values. The five most recent design values available cover the 2012–2018 ambient air monitoring data. This includes 3-year design values for 2012–2014, 2013–2015, 2014–2016, 2015–2017, and 2016–2018. Data from 2014, 2015, and 2016 was included in three out of five design values. Table 2 of this document shows the most recent five years of ambient ozone air quality 3-year design values. These design values are from EPA's Air Quality System (AQS).

The 7th column is a calculated 5-year weighted design value calculated by West Virginia. This 5-year weighted design value was calculated by averaging all the 4th Max Ozone values from the years 2012–2018. The 8th column is the 5-year design value average calculated by EPA. The 5-year design value average is calculated by averaging the design values for 2012–2014, 2013–2015, 2014–2016, 2015–2017, and 2016–2018. The 5-year weighted design value calculated by West Virginia is 0.067 ppm, and the 5-year design value calculated by EPA is 0.066 p.m., for the Wheeling Area, both of which are below the 0.071 ppm threshold level and 79% of the NAAQS. Table 2 shows that the most recent five years of ambient ozone air quality 3-year average DVs for the Wheeling Area continue to be below 85% of the 1997 ozone NAAQS. It demonstrates that 8-hour ozone air quality levels are significantly below the level of the standard.

TABLE 2—WHEELING AREA 8-HOUR OZONE DESIGN VALUES IN PART PER MILLION

[ppm]

Site	2012–2014	2013–2015	2014–2016	2015–2017	2016–2018	5-Year weighted	5-Year design value average (ppm)	Projected 2023
Wheeling, WV	0.067	0.066	0.068	0.067	0.066	0.067	0.066	0.060

For the 2023 projections shown in Table 2, EPA used a 2011-based air quality modeling platform, which includes emissions, meteorology, and other inputs for 2011 as the base year and emissions for 2023 as the future analytic year base case. Specifically, the modeling platform included a variety of data that contained information pertaining to the modeling domain and simulation period. These include gridded, hourly emissions estimates and meteorological data, and boundary concentrations. Separate emissions inventories were prepared for the 2011 base year and the 2023 base case. All other inputs (*i.e.* meteorological fields, initial concentrations, and boundary concentrations) were specified for the 2011 base year model application and remained unchanged for the future-year model simulations. The 2011 modeling platform and projected 2023 emissions were used to drive the 2011 base year and 2023 future case air quality model

simulations. The 2023 projected DV for the Wheeling Area is 0.060 ppm, well below the level of the 1997 8-hour ozone NAAQS, 0.08 ppm. Therefore, EPA proposes to determine that that future violations of the NAAQS in this area are unlikely.

C. Continued Air Quality Monitoring and Verification of Continued Attainment

Once an area has been redesignated to attainment, the state remains obligated to maintain an air quality network in accordance with 40 CFR part 58, in order to verify the area's attainment status. In the December 10, 2019 submittal, West Virginia committed to maintaining an appropriate air quality monitoring network, in accordance with 40 CFR part 58. West Virginia will continue to conduct ambient ozone air quality monitoring in the area throughout the term of the maintenance plan to verify continued attainment

with the 1997 8-hour ozone NAAQS and to protect any applicable PSD increments. WVDEP states that air quality measurements will be performed in accordance with appropriate regulations and guidance documents along with EPA quality assurance requirements, and monitoring procedures will be determined in accordance with 40 CFR part 58. WVDEP commits to submitting quality-assured ozone data to EPA through the AQS and ultimately certified by the WVDEP. EPA has analyzed the commitments in the plan and determined that they meet the requirements.

D. Contingency Plan

The contingency plan provisions are designed to promptly correct or prevent a violation of the NAAQS that might occur after redesignation of an area to attainment. Section 175A of the CAA requires that a maintenance plan

¹¹ See Appendix C of WVDEP's December 10, 2019 submittal.

¹² The daily emissions data for 2014 typical summer day VOC and NO_x emissions in Table 1

were excerpted from: https://www.epa.gov/sites/production/files/2018-11/ozone_1997_naaqs_emiss_inv_data_nov_19_2018_0.xlsx ("2014 2028 area emiss by sector" tab) posted at <https://>

www.epa.gov/ground-level-ozone-pollution/1997-ozone-national-ambient-air-quality-standards-naaqs-nonattainment.

include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must include a requirement that the state will implement all pollution control measures that were contained in the SIP before redesignation of the area to attainment. See section 175A(d) of the CAA. WVDEP's December 10, 2019 submittal outlines its adopted permanent and Federally enforceable control measures in order to regulate emission growth. The Wheeling Area's control measures include the permitting regulations and PSD measures, which will remain in effect through the maintenance plan period. Air permits issued will incorporate applicable PSD, New Source Performance Standard, and National Emission Standards for Hazardous Air Pollutant requirements.

WVDEP's December 10, 2019 submittal included the required contingency plan, to be implemented in the event of NAAQS violations in the future. WVDEP has committed to adopting and implementing one or more of the following control measures within three months after verification of a monitored ozone standard violation in the Wheeling Area: (1) Extend the applicability of the VOC reasonably available control technology (RACT) rule to include source categories previously excluded (*e.g.*, wastewater treatment facilities); (2) revise permitting requirements establishing more stringent emissions control measures and/or emissions offsets; (3) implement NO_x RACT requirements if necessary; (4) develop regulations to establish plant-wide emission caps; (5) implement Stage II Vapor Recovery regulations; (6) establish a program focusing on increasing the public's understanding of air quality issues and increasing support for actions to improve the air quality; and (7) initiate voluntary local control measures (*e.g.*, bicycle/pedestrian measures, engine idling reduction, partnership with ground freight industry, increase compliance with open burning restrictions, and school bus engine retrofit program).

If there is indeed a violation and the DV exceeds the NAAQS, the

contingency plan will be "triggered," based on the following schedule: (1) Quality assurance procedures must confirm the monitored violation within 45 days of occurrence; (2) a draft rule would be developed by the WVDEP for any regulation chosen; (3) WVDEP will adopt the selected control measure(s) as emergency rule(s) which will be implemented within six months after adoption and will file the rule(s) as legislative rule(s) for permanent authorization by the legislature; and (4) for each voluntary measure selected, the WVDEP will initiate program development with local governments within the area by the start of the following ozone season.

Furthermore, if the triennial inventories indicate emissions growth in excess of 10% of the 2011 base-year inventory or if a monitored ozone air quality exceedance pattern indicates that an ozone NAAQS violation may be imminent, WVDEP will evaluate existing control measures to ascertain if additional regulatory revisions are necessary to maintain the ozone standards.

EPA finds that West Virginia's contingency measures, as well as the commitment to continue implementing any SIP requirements, satisfy the pertinent requirements of section 175A. Importantly, while EPA notes that West Virginia's contingency measures option six (increasing public understanding) and seven (voluntary local control measures), are not enforceable measures that standing alone are likely to lead to reductions in emissions that could promptly correct a violation of the NAAQS, their inclusion among other measures that meet that criterion, is overall SIP-strengthening, and their inclusion does not alter EPA's proposal to find the LMP is fully approvable.

E. Transportation Conformity

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS (CAA 176(c)(1)(B)). EPA's conformity rule at 40 CFR part 93 requires that transportation plans, programs and projects conform to SIPs and establish the criteria and procedures for determining whether or not they conform. The conformity rule generally requires a demonstration that emissions from the Regional Transportation Plan (RTP) and the Transportation Improvement Program (TIP) are consistent with the motor vehicle emissions budget (MVEB) contained in

the control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). An MVEB is defined as "that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision or maintenance plan for a certain date for the purpose of meeting reasonable further progress milestones or demonstrating attainment or maintenance of the NAAQS, for any criteria pollutant or its precursors, allocated to highway and transit vehicle use and emissions (40 CFR 93.101)."

Under the conformity rule, LMP areas may demonstrate conformity without a regional emission analysis (40 CFR 93.109(e)). However, because LMP areas are still maintenance areas, certain aspects of transportation conformity determinations still will be required for transportation plans, programs and projects. Specifically, for such determinations, RTPs, TIPs and transportation projects still will have to demonstrate that they are fiscally constrained (40 CFR 93.108), meet the criteria for consultation (40 CFR 93.105 and 93.112) and Transportation Control Measure implementation in the conformity rule provisions (40 CFR 93.113). Additionally, conformity determinations for RTPs and TIPs must be determined no less frequently than every four years, and conformity of plan and TIP amendments and transportation projects is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104. In addition, for projects to be approved they must come from a currently conforming RTP and TIP (40 CFR 93.114 and 93.115). The Wheeling Area remains under the obligation to meet the applicable conformity requirements for the 1997 8-hour ozone NAAQS.

III. Proposed Action

EPA's review of WVDEP's December 10, 2019 submittal indicates it meets CAA section 175A and all applicable CAA requirements. EPA is proposing to approve the LMP for the 1997 8-hour ozone NAAQS for the Wheeling Area (comprising Marshall and Ohio Counties), as a revision to the West Virginia SIP. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a).

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
 - Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
 - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
 - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
 - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
 - Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
 - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
 - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
 - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
 - Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, this proposed rule, pertaining to West Virginia's second maintenance plan for Marshall and Ohio Counties, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

Dated: June 17, 2020.

Cosmo Servidio,

Regional Administrator, Region III.

[FR Doc. 2020-13508 Filed 6-26-20; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 25, 27, and 101

[GN Docket No. 18-122, DA 20-644; FRS 16883]

Wireless Telecommunications Bureau Seeks Comment on PSSI Global Services, L.L.C. Request for Stay of 3.7-4.2 GHz Band Report and Order and Order of Proposed Modification

AGENCY: Federal Communications Commission.

ACTION: Notification of petition for stay; request for comment.

SUMMARY: In this document, the Wireless Telecommunications Bureau (Bureau) seeks comment on a request that the Commission stay, pending judicial review, the rules adopted in the Report and Order and Order of Proposed Modification, filed by PSSI Global Services, L.L.C. (PSSI).

DATES: Comments are due on or before June 25, 2020, and reply comments are due on June 30, 2020.

ADDRESSES: You may submit comments and reply comments, identified by GN Docket No. 18-122, by any of the following methods:

- **Electronic Filers:** Elections may be filed electronically using the internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, DA 20-304 (March 19, 2020). <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

FOR FURTHER INFORMATION CONTACT:

Susan Mort, Wireless Telecommunications Bureau, at Susan.Mort@fcc.gov or 202-418-2429.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, GN Docket No. 18-122, DA 20-644, released on June 18, 2020. The complete text of this document is available on the Commission's website at <https://ecfsapi.fcc.gov/file/061838609756/DA-20-644A1.pdf> or by using the search function for GN Docket No. 18-122 on the Commission's ECFS web page at www.fcc.gov/ecfs.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file elections on or before the date indicated on the first page of this document.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Ex Parte Rules: This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must: (1) List all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made; and (2)

summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenters written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b) of the Commission's rules. In proceedings governed by § 1.49(f) of the rules or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Synopsis

With the document, DA 20–644, the Bureau seeks comment on a request that the Commission stay, pending judicial review, the rules adopted in the *Report and Order* (85 FR 22804, April 23, 2020), filed by the PSSI.¹ PSSI has challenged the *Report and Order* in the United States Court of Appeals for the D.C. Circuit and seeks a stay from the Commission pending judicial review.

The Bureau seeks comment on the issues raised by the Small Satellite Operators' request for stay.

Federal Communications Commission.

Amy Brett,

Associate Division Chief, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau.

[FR Doc. 2020–13937 Filed 6–25–20; 11:15 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 200616–0160]

RIN 0648–BH61

Pacific Island Fisheries; Swordfish Trip Limits in the American Samoa Pelagic Longline Fishery

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to remove the swordfish retention limit in the American Samoa deep-set longline fishery. NMFS originally implemented the limit as part of a suite of gear and operational requirements intended to discourage shallow-set fishing, thus reducing interactions with green sea turtles. The gear requirements have reduced green sea turtle interactions, and the swordfish retention limit is not needed. The proposed rule would remove the unnecessary restriction that results in the discard of small amounts of marketable swordfish that could otherwise be supplied as seafood. The proposed rule is intended to promote efficiency in the fishery.

DATES: NMFS must receive comments by July 14, 2020.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2019–0123, by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov/docket?D=NOAA-NMFS-2019-0123>, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Send written comments to Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

Instructions: NMFS may not consider comments sent by any other method, to any other address or individual, or received after the end of the comment period. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or

otherwise sensitive information submitted voluntarily by the sender will be publicly accessible.

The Western Pacific Fishery Management Council (Council) and NMFS prepared a regulatory amendment, including an environmental assessment (EA), that describes the potential impacts on the human environment that could result from the proposed rule. The regulatory amendment is available at www.regulations.gov, or from the Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808–522–8220, fax 808–522–8226, www.wpcouncil.org.

FOR FURTHER INFORMATION CONTACT: Sarah Ellgen, NMFS PIR Sustainable Fisheries, 808–725–5173.

SUPPLEMENTARY INFORMATION: The Council and NMFS manage the American Samoa deep-set longline fishery under the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP) and implementing regulations, as authorized by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The fishery targets South Pacific albacore, and occasionally catches other pelagic fish, such as swordfish. In 2011, based on a Council recommendation in FEP Amendment 5, NMFS implemented gear requirements that were intended to reduce interactions with green sea turtles (76 FR 52888, August 24, 2011). That rule also implemented a limit of 10 swordfish that may be retained on a fishing trip for vessels over 40 ft. The 10-fish limit was intended to discourage switching from deep-set gear targeting albacore to shallow-set gear targeting swordfish because shallow-set fishing may interact more frequently with green sea turtles than deep-set fishing.

The deep-set gear requirements, including setting hooks below 100 m, have reduced interactions with green sea turtles. The number of swordfish caught per trip has been small, and there has been no evidence that longline fishermen have targeted swordfish. Based on logbook data from 2010 through 2018, the average annual catch rate of swordfish ranged from 0.0008 to 0.03 swordfish per 1,000 hooks. From 2008 through 2018, the number of swordfish caught ranged from 0.6 to 2.8 fish per trip. The most recent stock assessment of Southwest Pacific swordfish, conducted in 2017, indicated the swordfish stock is neither overfished nor subject to overfishing. See the regulatory amendment and the Classification section for details about catch and revenue in this fishery.

¹ Request for Stay, GN Docket No. 18–122, PSSI (filed June 17, 2020).

The current requirement for vessels over 40 ft. to discard any swordfish in excess of the 10-fish limit results in wasteful discards, potential lost revenues, and an unnecessary reduction in seafood available to the Nation. The American Samoa longline fishery is facing challenging economic conditions and the Council recommended that NMFS remove the swordfish limit to provide relief. Removing the swordfish limit would allow fishermen to retain a few more swordfish that might be caught incidentally during deep-set fishing, while maintaining safeguards for green sea turtles through the existing gear restrictions. All other management measures (including a limited vessel participation, prohibited fishing areas, fishery observers, logbook reporting, vessel monitoring systems, and gear and operational requirements) would remain in place and continue to apply in the fishery.

NMFS will consider public comments on this proposed rule and will announce the final rule in the **Federal Register**. NMFS must receive any comments by the date provided in the **DATES** heading, not postmarked or otherwise transmitted by that date.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FEP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

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

This proposed rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

Certification of Finding of No Significant Impact on Substantial Number of Small Entities

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. This proposed rule would remove the limits on the number of swordfish that may be landed or possessed during any given American Samoa-based longline fishing trip south of the Equator. Currently, a longline vessel over 40 ft may keep no more than 10 swordfish on any given trip. Under the proposed rule, there would be no limit on the number of swordfish landed or kept per trip. All

other measures applicable to the fishery would remain unchanged. The proposed rule intends to reduce regulatory discards and optimize the yield of swordfish.

This rule would directly affect vessels that hold American Samoa longline limited entry Class B, C, and D permits. Class A permit holders are exempt from the current swordfish retention requirement. As of May 15, 2020, 43 vessels held American Samoa longline limited entry Class B, C, and D permits, but the potential number of affected vessels could be as high as 60, which is the total number of permits available. According to logbook information, twelve American Samoa longline vessels within these class size permit categories actively fished in 2018 (four Class C and eight Class D). No Class B vessels actively fished in recent years.

Based on data provided in logbooks and observer records, a total of approximately 21,500 lb of swordfish may have been discarded due to the swordfish trip limit among all vessels from 2013 through 2016. At the 2018 market price of \$3.37/lb, and assuming that none of those discards were due to shark predation, small size, or other factors contributing to low marketability, those discards would have represented a loss of total fleetwide revenue of approximately \$72,000 over the four years, or an annual fleetwide loss in revenue of just over \$18,000. Using the average number of Class C and D longline vessels that actively fished in 2017 and 2018, this would represent an annual loss in potential revenue of \$1,393 per active vessel. Not all swordfish retained would have been sold in the local markets; some would be retained for onboard consumption, kept for personal consumption and/or given away to the local community, as is customary in American Samoa.

NMFS estimates the average annual 2015–2018 gross ex-vessel value of pelagic fish landed by the American Samoa-based longline fishery to be about \$5.075 million (all years adjusted to 2018 dollars). Based on the average number of vessels fishing during those years, the average annual revenue would be just over \$300,000 per active vessel. NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in

excess of \$11 million for all of its affiliated operations worldwide. Based on available information, NMFS has determined that all vessels that are currently permitted federally under the FEP are small entities.

Under the proposed action, American Samoa-based longline fishermen would be able to keep more swordfish than what is currently allowed, resulting in an additional revenue gain of up to \$1,393 per active vessel per year. The other action alternative that was considered would allow the retention of up to 25 swordfish per trip for a trip where no observer is on board the vessel, and an unlimited amount of swordfish if an observer is on board. The preferred action was selected because deep-set gear restrictions have reduced green sea turtle interactions, there has been no evidence that fishermen switch to shallow-setting on unobserved trips, and this action would be preferred by small entities.

Under the proposed action, the American Samoa longline fishery managed under the Pelagic FEP is not expected to expand substantially nor change the manner in which they are currently conducted (*i.e.*, area fished, number of vessels longline fishing, number of trips taken per year, number of hooks set per vessel during a trip, depth of hooks, or deployment techniques in setting longline gear). The proposed rule does not duplicate, overlap, or conflict with other Federal rules and is not expected to have significant impact on small organizations or government jurisdictions. Furthermore, there would be little, if any, disproportionate adverse economic impacts from the proposed rule based on gear type, or relative vessel size. The proposed rule also will not place a substantial number of small entities, or any segment of small entities, at a significant competitive disadvantage to large entities.

For the reasons above, NMFS does not expect the proposed action to have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR 665

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Longline, Pacific Islands, Seafood, Swordfish.

Dated: June 16, 2020.

Samuel D. Rauch, III,

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

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

**PART 665—FISHERIES IN THE
WESTERN PACIFIC**

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

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

■ 2. In § 665.813, revise paragraph (k)
introductory text and remove paragraph
(k)(5) to read as follows:

**§ 665.813 Western Pacific longline fishing
restrictions.**

* * * * *

(k) *South Pacific Longline
Requirements.* When fishing south of
the Equator (0° lat.) for western Pacific
pelagic MUS, owners and operators of
vessels longer than 40 ft (12.2 m)

registered for use with any valid
longline permit issued pursuant to
§ 665.801 must use longline gear that is
configured according to the
requirements in paragraphs (k)(1)
through (4) of this section.

* * * * *

[FR Doc. 2020–13317 Filed 6–26–20; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 85, No. 125

Monday, June 29, 2020

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 24, 2020.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by July 29, 2020 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

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

displays a currently valid OMB control number.

Food and Nutrition Service

Title: USDA Professional Standards Training Tracker Tool (PSTTT).

OMB Control Number: 0584–0626.

Summary of Collection: Section 306 of the Healthy Hunger-Free Kids Act of 2010 (HHFKA) requires Professional Standards for state and local school district nutrition professionals. In addition to hiring standards, mandatory annual training will be required for all individuals involved in preparing school meals. To meet the training requirements and assist in keeping track of training and training courses, FNS has developed a web-based application tool with a SQL-server database which is available to local educational agencies and school food authorities through the FNS public website. While training requirements are mandatory, using the USDA PSTTT to track the training is voluntary. State and local school district nutrition professionals can use any method to track and manage their trainings. These resources facilitate compliance with HHFKA requirements and are provided at no cost to the state, district, or school nutrition professionals.

Need and Use of the Information: State and school nutrition professionals can use the PSTTT to keep track of their training courses, learning objectives, and training hours, in accordance with HHFKA requirements. State reviewers can run reports from the PSTTT that they can use in preparation for Administrative Reviews that are conducted onsite at the school food authorities.

Description of Respondents: State, Local, or Tribal Government.

Number of Respondents: 10,006.

Frequency of Respondents: Reporting: On occasion; Quarterly; Annually; Weekly; Monthly.

Total Burden Hours: 17,090.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2020–13949 Filed 6–26–20; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2020–0053]

Notice of Request for Revision to and Extension of Approval of an Information Collection; National Veterinary Services Laboratories; Bovine Spongiform Encephalopathy Surveillance Program

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with National Veterinary Services Laboratories diagnostic support for the bovine spongiform encephalopathy surveillance program.

DATES: We will consider all comments that we receive on or before August 28, 2020.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/#/docketDetail;D=APHIS-2020-0053>.

- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2020–0053, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#/docketDetail;D=APHIS-2020-0053> or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the regulations to prevent the introduction of bovine spongiform encephalopathy into the United States, contact Dr. Christina Loiacono, Coordinator, National Animal Health Laboratory Network, USDA,

APHIS, Veterinary Services, 1920 Dayton Road, Ames, IA 50010; (515) 337-7911; christina.m.loiacono@usda.gov. For information on the information collection process, contact Mr. Joseph Moxey, APHIS Information Collection Coordinator, at (301) 851-2483; joseph.moxey@usda.gov.

SUPPLEMENTARY INFORMATION:

Title: National Veterinary Services Laboratories; Bovine Spongiform Encephalopathy Surveillance Program.

OMB Control Number: 0579-0409.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) is authorized, among other things, to carry out activities to detect, control, and eradicate pests and diseases of livestock within the United States. APHIS' National Veterinary Services Laboratories (NVSL) safeguard U.S. animal health and contribute to public health by ensuring that timely and accurate laboratory support is provided by their nationwide animal health diagnostic system.

USDA complies with the standard set by the World Organization for Animal Health (OIE) for bovine spongiform encephalopathy (BSE) surveillance. This compliance is critical for maintaining our BSE-risk status with the OIE. Our BSE surveillance program requires information collection activities, such as completing the USDA BSE Surveillance Submission form and the USDA BSE Surveillance Data Collection form.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate 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;

(2) Evaluate the accuracy of our estimate of the burden of the 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, through use, as

appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.10 hours per response.

Respondents: Slaughter establishments, offsite collection facilities for condemned slaughter cattle, rendering 3D/4D facilities, State animal health personnel, veterinary diagnostic laboratories, and accredited veterinarians.

Estimated annual number of respondents: 1,099.

Estimated annual number of responses per respondent: 23.

Estimated annual number of responses: 25,640.

Estimated total annual burden on respondents: 2,565 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 24th day of June 2020.

Mark Davidson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2020-13944 Filed 6-26-20; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS-2020-0012]

Retail Exemptions Adjusted Dollar Limitations

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the dollar limitations on the amount of meat and meat food products and poultry and poultry products that a retail store can sell to hotels, restaurants, and similar institutions without disqualifying itself for exemption from Federal inspection requirements. Because Siluriformes fish have been regulated, along with traditional meat products, under the Federal Meat Inspection Act since 2016, FSIS has included Siluriformes fish and fish products in its calculations for the retail dollar limitation for meat products in this announcement. FSIS requests

comments on the inclusion of Siluriformes fish and fish products with meat products.

DATES: *Applicable* July 29, 2020.

Comments on this notice must be received on or before August 28, 2020.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- **Federal eRulemaking Portal:** This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to <http://www.regulations.gov>. Follow the on-line instructions at that site for submitting comments.

- **Mail, including CD-ROMs, etc.:** Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Room 6065, Washington, DC 20250-3700.

- **Hand- or courier-delivered submittals:** Deliver to 1400 Independence Avenue SW, Room 6065, Washington, DC 20250-3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS-2020-0012. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to <http://www.regulations.gov>.

Docket: For access to background documents or comments received, call (202)720-5627 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Room 6065, Washington, DC 20250-3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250-3700; (202) 720-5627.

SUPPLEMENTARY INFORMATION:

Background

The Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) provide a comprehensive statutory framework to ensure that meat and meat food products and poultry and poultry products prepared for commerce are wholesome, not adulterated, and properly labeled and packaged. Statutory provisions requiring inspection of the processing of meat and meat food products and poultry and poultry products do not apply to operations of types traditionally and

usually conducted at retail stores and restaurants in regard to products offered for sale to consumers in normal retail quantities (21 U.S.C. 661(c)(2) and 454(c)(2)). FSIS's regulations (9 CFR 303.1(d) and 381.10(d)) elaborate on the conditions under which requirements for inspection do not apply to retail operations involving the preparation of meat and meat food products and the processing of poultry and poultry products.

Sales to Hotels, Restaurants, and Similar Institutions

Under the aforementioned regulations, sales to hotels, restaurants, and similar institutions (other than household consumers) disqualify a retail store from exemption if the retail product sales exceed either of two maximum limits: 25 percent of the dollar value of the total retail product sales of the amenable product or the calendar year retail dollar limitation set by the FSIS Administrator. The retail dollar limitation is adjusted automatically during the first quarter of the year if the Consumer Price Index (CPI), published by the Bureau of Labor Statistics, shows an increase or decrease of more than \$500 in the price of the same volume of product for the previous year. FSIS publishes a notice of the adjusted retail dollar limitations in the **Federal Register**. (See 9 CFR 303.1(d)(2)(iii)(b) and 381.10(d)(2)(iii)(b).)

The CPI for 2019 reveals an annual average price increase for meat and meat food products at 1.30 percent and an annual average price decrease for poultry and poultry products at 0.3 percent. When rounded to the nearest \$100 dollar, the retail dollar limitation for meat and meat food products increased by \$1,000 and the retail dollar limitation for poultry and poultry products decrease by \$200. In accordance with 9 CFR 303.1(d)(2)(iii)(b) and 381.10(d)(2)(iii)(b), because the retail dollar limitations for meat and meat food products increased by more than \$500 and FSIS then included an additional \$2,500¹ to account for Siluriformes fish and fish product retail sales in the 2020 calculation, FSIS is increasing the dollar limitation on sales to hotels, restaurants, and similar institutions to \$79,200 for meat and meat food products for calendar year 2020.

Because the decrease in poultry prices is less than \$500, FSIS is making no

adjustment in the dollar limitation for poultry and poultry products. The dollar limitation for poultry and poultry products remains unchanged at \$56,600 for calendar year 2020.

Adjustment to Account for Siluriformes Methodology

FSIS used the 2012 Economic Census,² the 2017 Economic Census,³ the 2017 Food Industry Association's (FMI) Supermarket Sales,⁴ the 2017 National Fisheries Institute's (NFI) consumption data,⁵ and the Bureau of Labor Statistics' CPI⁶ to estimate the total sales of Siluriformes fish and fish products at retail. FSIS then used the methodology in the October 3, 1970 "Revision Pursuant to Wholesome Meat Act" final rule (35 FR 15552), which established the initial baseline value used for the meat and poultry retail exemptions, to determine the percentage of exempted sales.⁷

According to the 2017 Economic Census there were \$625 billion in supermarket sales. The 2017 FMI report noted that 12.64 percent, or \$79 billion, of supermarket sales were for meat, poultry, and fish. FSIS assumed a third of these sales, or \$26 billion, were for fish products. FSIS then used NFI's 2017 Top Ten List to estimate the total sales of Siluriformes at retail. NFI's Top Ten List breaks down the pounds per capita consumption rate of fish in the U.S.; the sum of the consumption of Catfish and Pangasius was 7.75 percent of total fish consumption. FSIS assumed that the percentage of the domestic consumption of Catfish and Pangasius represented the percentage of Siluriformes retail sales, thus Siluriformes sales were estimated to be \$26 billion multiplied by 7.75 percent, or \$2 billion. Following the final rule's

methodology to exempt half of the percentage of Siluriformes sales, in this case 3.88 percent, the fish retail exemption total is \$79 million.

The 2012 Economic Census has sales revenue ranges for supermarket sales. FSIS applied the 2017 Economic Census numbers to the proportions in the 2012 Economic Census. FSIS then calculated the midpoint sales for each range and multiplied the midpoint by the number of retail establishments in each sales category to estimate total sales per category. FSIS then used the same calculations above to determine the Siluriformes sales per category. Finally, FSIS used the midpoint sales amounts to sum the number of retail establishments in each sales category until the total Siluriformes fish and fish products revenue amount was less than or equal to \$79 million. This calculation would exempt approximately 33,722 retail establishments. The exemption amount per retail establishment would equal \$79 million divided by 33,722 retail establishments, or about \$2,376⁸ per retail establishment. This number was inflated to \$2,466⁹ and then rounded to the nearest hundred to equal \$2,500 per establishment. FSIS requests comments on the inclusion of Siluriformes fish and fish products in the retail exemption dollar limitation for all meat products.

Congressional Review Act

Pursuant to the Congressional Review Act at 5 U.S.C. 801 *et seq.*, the Office of Information and Regulatory Affairs has determined that this notice is not a "major rule," as defined by 5 U.S.C. 804(2).

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** notice on-line through its web page located at: <http://www.fsis.usda.gov/federal-register>.

FSIS will also announce and provide a link to this **Federal Register** notice through the FSIS *Constituent Update*, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is

⁸ Calculations may differ due to rounding.

⁹ Bureau of Labor Statistics: CPI-All Urban Consumers (Current Series): CUUR0000SEFG; Not Seasonally Adjusted: Fish and seafood U.S. city average: Annual. CPI (2017) = 287.676; CPI (2019) = 298.493; (298.493-287.676)/287.676=3.8%; \$2,376+(\$2,376*0.038) = \$2,466.

¹ Please see Adjustment to Account for Siluriformes Methodology section for more information about how this amount was calculated.

² 2012 Economic Census of the United States. Table EC1244SSSZ1 Retail Trade: Subject Series—Etab & Firm Size: Summary Statistics by Sales Size of Establishments for the U.S. NAICS 44511 Supermarkets and other grocery (except convenience) stores.

³ 2017 Economic Census of the United States. Table EC1700BASIC. NAICS 44511 Supermarkets and other grocery (except convenience) stores.

⁴ Food Industry Association (2017) Supermarket Sales by Department-Percent of Total Supermarket Sales. Accessed on March 6, 2020: https://www.fmi.org/docs/default-source/research/supermarket-sales-by-department-2018fd94300324aa67249237ff0000c12749.pdf?sfvrsn=2c3e576e_0

⁵ National Fisheries Institute. (2018, December 13). Top 10 List Shows Significant Increase in Seafood Consumption. Accessed on March 9, 2020: https://www.aboutseafood.com/press_release/top-10-list-shows-significant-increase-in-seafood-consumption/.

⁶ Bureau of Labor Statistics. Consumer Price Index. Fish and seafood in U.S. city average, all urban consumers, not seasonally adjusted (CUUR0000SEFG).

⁷ In the final rule, the exemption percentage was half the percentage of sales.

available on the FSIS web page. Through the FSIS web page, the Agency can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: <http://www.fsis.usda.gov/subscribe>. Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How to File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf, or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email: *Mail:* U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250-9410, *Fax:* (202) 690-7442, *Email:* program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotope, etc.), should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

Paul Kiecker,
Administrator.

[FR Doc. 2020-13913 Filed 6-26-20; 8:45 am]

BILLING CODE 3410-DM-P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—FNS 275—SNAP Quality Control Regulations

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This is a revision of a currently approved information collection request.

DATES: Written comments must be received on or before August 28, 2020.

ADDRESSES: Comments may be sent to Stephanie Proska, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Place, Room 05.5040, Alexandria, VA 22314. Comments may also be submitted via email to SNAPHQ-WEB@fns.usda.gov. Comments will also be accepted through the Federal eRulemaking Portal. Go to <http://www.regulations.gov>, and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of this information collection should be directed to Stephanie Proska at 703-305-2437.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: Supplemental Nutrition Assistance Program (SNAP).

OMB Number: 0584-0303.

Expiration Date: July 31, 2020.

Type of Request: Revision of a currently approved collection.

Abstract: Section 16 of the Food and Nutrition Act of 2008, as amended, provides the legislative basis for the operation of the SNAP QC system. Part 275, Subpart C, of SNAP regulations implements the legislative mandates found in Section 16. Section 11(d) of the Food and Nutrition Act of 2008, as amended (the Act), requires each State agency administering SNAP to submit a plan of operation specifying the manner in which the program is conducted and Section 11(e) of the Act authorizes the inclusion of other provisions as required by regulation. In Part 275, there are four components of the Quality Control (QC) system that are covered in this required information collection. They are: (1) The sampling plan; (2) the arbitration process; (3) the good cause process; and (4) QC-related New Investments.

Each State agency is required to develop a sampling plan that demonstrates the integrity of its case selection process. The QC system is designed to measure each State agency's payment error rate and case and procedural error rate based on a statistically valid sample of SNAP cases. A State agency's payment error rate represents the proportion of cases that were reported through a QC review as being ineligible, as well as the proportion of SNAP benefits that were either overissued or underissued to SNAP households. A State agency's case and procedural error rate represents the correctness of a proportion of cases that were measured in a QC review in which the State agency took an action to deny an application or suspend or terminate the benefits of a participating household. It also includes the accuracy of measuring a State's compliance with Federal procedural requirements for those actions, which include the timeliness of the action and adherence to notice requirements.

The QC system also contains procedures for resolving differences in review findings between State Agencies and FNS. This is referred to as the arbitration process. As part of the arbitration process, State agencies must defend, in writing, their disagreement with the Federal re-reviewer's finding or disposition of a case and submit their defense to the arbitrator for a decision to be made on their disagreement.

The QC system also contains procedures that provide relief for State agencies from all or a part of a QC liability when a State agency can demonstrate that a part or all of an excessive error rate was due to an

unusual event that had an uncontrollable impact on the State agency's payment error rate. This is referred to as the good cause process.

Finally, when a State agency is unable to demonstrate that a part or all of an excessive error rate was due to an unusual event that had an uncontrollable impact on the State agency's payment error rate and chooses to settle with FNS by investing fifty percent of their total QC liability using new State agency funds into the SNAP program to target the root causes of their errors, the State agency must submit a new investment plan and, after approval, new investment progress reports every six months until the plan is complete.

Burden for the QC system includes reporting and recordkeeping burden for State agencies to create a QC sampling plan and participate in the arbitration, good cause, new investment plan and new investment progress report processes.

The requested revisions for the reporting burdens for each component are as follows: (1) The estimated annual

reporting burden associated with the QC sampling plan is 371 hours, an increase of 106 hours from the current collection due to FNS increasing the burden hours per response from 5 hours to 7 hours; (2) The estimated annual reporting burden associated with arbitration is 1,224 hours, a decrease of 288 hours from the current collection due to less arbitration requests; (3) The estimated annual reporting burden associated with the good cause process is 160 hours, which is a decrease of 160 hours from the current collection; (4) The estimated annual reporting burden associated with the new investment plan is 288 hours, an increase of 160 hours from the current collection due to more State agencies needing to do new investment; and finally (5) The estimated annual reporting burden associated with the new investment progress report is 90 hours, an increase of 50 hours from the current collection due to more State agencies needing to do progress reports.

The requested total estimated reporting burden for this collection is 2133 hours, a decrease of 132 hours.

The requested annual recordkeeping burden associated with the QC sampling plan remains at 1.25 hours per year. The revised annual recordkeeping burden associated with arbitration has decreased from 1.4868 hours to 0.8496 and the good cause process burden decreased from 0.0472 hours to 0.0236 hours due to fewer states requesting arbitration and good cause. The estimated recordkeeping burden for the QC-related new investment plan increased from 0.0944 hours to 0.0214 hours and the estimated recordkeeping burden for the QC-related new investment progress report increased from 0.1888 hours to 0.4248 hours due to more states needing to do new investment plans and progress reports since the collection's last approval. The burden for recordkeeping has decreased from 3.068 hours to 2.7612 hours.

As a result, the overall annual reporting and recordkeeping burden for the QC system, as proposed by this notice, decreased from 2,268.07 hours to 2,135.76 hours. A decrease of 132.31 burden hours.

Affected public	Requirement	Estimated number of respondents	Responses annually per respondent	Total annual responses (col. bxc)	Estimated average number of hours per response	Estimated total hours (col. dxe)
Reporting Burden						
State Agencies	Sampling Plan	53	1	53	7	371
State Agencies	Arbitration Process	12	3	36	34	1,224
State Agencies	Good Cause Process	1	1	1	160	160
State Agencies	New Investment Plan Template Form FNS 74 A.	9	1	9	32	288
State Agencies	New Investment Progress Report Template Form FNS 74 B.	9	2	18	5	90
Grand Total Reporting.	53		117		2,133	
Affected public	Requirement	Estimated number of respondents	Number of reports annually per state	Number of total annual records	Estimated time per record	Estimated total recordkeeping hours
Recordkeeping Burden						
State Agencies	Sampling Plan	53	1	53	0.0236	1.2508
State Agencies	Arbitration Process	12	3	36	0.0236	0.8496
State Agencies	Good Cause Process	1	1	1	0.0236	0.0236
State Agencies	New Investment Plan Template Form FNS 74 A.	9	1	9	0.0236	0.2124
State Agencies	New Investment Progress Report Template Form FNS 74 B.	9	2	18	0.0236	0.4248
Grand Total Recordkeeping		53		117		2.7612
Combined Grand Total Reporting and Record-keeping.		53	4.41509434	234	9.12718462	2,135.76

Pamilyn Miller,
Administrator, Food and Nutrition Service.
 [FR Doc. 2020–13918 Filed 6–26–20; 8:45 am]
BILLING CODE 3410–30–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Virginia Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Virginia Advisory Committee (Committee) will hold a meeting on Friday, July 24, 2020 at 12:00 p.m. Eastern time. The Committee will discuss civil rights concerns in the state.

DATES: The meeting will take place on Friday July 24, 2020 at 12:00 p.m. Eastern time.

Public Call Information: Dial: 800–437–2398, Conference ID: 9948857

FOR FURTHER INFORMATION CONTACT:

Melissa Wojnaroski, DFO, at mwojnaroski@usccr.gov or 312–353–8311

SUPPLEMENTARY INFORMATION: Members of the public can listen to these discussions. Committee meetings are available to the public through the above call in number. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following

the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 230 S Dearborn, Suite 2120, Chicago, IL 60604. They may also be emailed to Corrine Sanders at csanders@usccr.gov. Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via www.facadatabase.gov under the Commission on Civil Rights, Virginia Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, <http://www.usccr.gov>, or may contact the Regional Programs Unit at the above email or street address.

Agenda

Welcome and Roll Call
 Civil Rights in Virginia: Hate Crime
 Future Plans and Actions
 Public Comment
 Adjournment

Dated: June 24, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–13926 Filed 6–26–20; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Connecticut Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that the Connecticut Advisory Committee to the U.S. Commission on Civil Commission will hold a briefing via web conference at 12:00 p.m. (EDT) on Monday, July 13, 2020. The purpose of the meeting is for the Advisory Committee to review and vote on a project proposal and to have a web conference briefing to hear from advocates and government officials about COVID 19 in nursing homes in Connecticut.

DATES: Monday, July 13, 2020; 12:00 p.m. (EDT)

Public Call-In Information (audio only):

Conference call-in number: 1–800–353–6461 and conference ID: 9640368

Web Access Information: (visual only):

The online portion of the meeting

may be accessed through the following link: <https://cc.readytalk.com/r/tgl9d1qw2xh3eom>

FOR FURTHER INFORMATION CONTACT:

Evelyn Bohor at ero@usccr.gov or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 1–800–353–6461 and conference ID: 9640368. If you want to see the presenters and follow any visuals they may share, you may join the visual portion of the briefing using the link provided above. Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–977–8339 and providing the operator with the toll-free conference call-in number: 1–800–353–6461 and conference ID: 9640368.

Members of the public are invited to make statements during the open comment period of the meeting or submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be emailed to Evelyn Bohor at ero@usccr.gov. Persons who desire additional information may contact the Evelyn Bohor at (202) 921–2212.

Records and documents discussed during the meeting will be available for public viewing as they become available at: Connecticut FACA link; click the “Meeting Details” and “Documents” links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, www.usccr.gov, or to contact the Eastern Regional Office at the above phone numbers, email or street address.

Agenda

Monday, July 13, 2020 at 12:00 p.m. (EDT)

- Roll Call
- Welcome and Introductions
- Briefing: COVID 19 in Nursing Homes in Connecticut
- Open Comment
- Next Steps
- Adjournment

Dated: June 24, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020-13915 Filed 6-26-20; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS**Notice of Public Meetings of the Oklahoma Advisory Committee**

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Oklahoma Advisory Committee (Committee) will hold a series of meetings via teleconference on Tuesday, July 28, Monday, August 17, 2020 at 2:00pm Central Time. The purpose of discussing the Committee's project proposal on policing.

DATES: The meetings will be held on:

- Tuesday, July 28, 2020, at 2:00 p.m. Central Time
- Monday, August 17, 2020 at 2:00 p.m. Central Time

Public Call Information: Dial: 866-248-8441, Conference ID: 7836612.

FOR FURTHER INFORMATION CONTACT:

Brooke Peery, DFO, at bpeery@usccr.gov or (202) 701-1376.

SUPPLEMENTARY INFORMATION: Members of the public may listen to this discussion through the above call in number. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons

with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1-800-877-8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 230 S Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353-8324, or emailed to Corrine Sanders at csanders@usccr.gov. Persons who desire additional information may contact the Regional Programs Unit at (312) 353-8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via www.facadatabase.gov under the Commission on Civil Rights, Oklahoma Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, <http://www.usccr.gov>, or may contact the Regional Programs Unit at the above email or street address.

Agenda

- I. Welcome & Roll Call
- II. Approval of Minutes
- III. Committee Discussion on Proposal Draft
- IV. Public Comment
- VI. Adjournment

Dated: June 24, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020-13914 Filed 6-26-20; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE**International Trade Administration**

[C-533-829]

Prestressed Concrete Steel Wire Strand From India: Final Results of Expedited Sunset Review of Countervailing Duty Order

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

SUMMARY: As a result of this sunset review, the Department of Commerce (Commerce) finds that revocation of the countervailing duty (CVD) order on prestressed concrete steel wire strand

(PC strand) from India would be likely to lead to continuation or recurrence of a countervailable subsidy at the level indicated in the "Final Results of Review" section of this notice.

DATES: Applicable June 29, 2020.

FOR FURTHER INFORMATION CONTACT:

Benjamin Smith, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2181.

SUPPLEMENTARY INFORMATION:**Background**

On February 4, 2004, Commerce published the *Order* on PC strand in the **Federal Register**.¹ On March 2, 2020, Commerce initiated the third sunset review of the *Order* pursuant to section 751(c)(2) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.218(c).² On March 13, 2020, Commerce received a timely notification of intent to participate from Insteel Wire Products Company, Strand-Tech Manufacturing, Inc., Sumiden Wire Products Corporation, and Wire Mesh Corp. (collectively, domestic interested parties), filed in accordance with 19 CFR 351.218(d)(1)(i).³ The domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as domestic producers of PC strand.

On March 30, 2020, Commerce received adequate substantive responses to the *Initiation* from the domestic interested parties within the 30-day period specified in 19 CFR 351.218(d)(3)(i).⁴ On February 25, 2020, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive a substantive response from respondent interested parties.⁵ In accordance with section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) sunset review of the *Order* on PC strand from India.

¹ See *Notice of Countervailing Duty Order: Prestressed Concrete Steel Wire Strand from India*, 69 FR 5319 (February 4, 2004) (*Order*).

² See *Initiation of Five-Year (Sunset) Reviews*, 85 FR 12253 (March 2, 2020) (*Initiation*).

³ See Domestic Interested Parties' Letter, "Prestressed Concrete Steel Wire Strand from India—Domestic Interested Parties' Notice of Intent to Participate," dated March 13, 2020.

⁴ See Domestic Interested Parties' Letter, "Prestressed Concrete Steel Wire Strand from India Domestic Interested Parties' Substantive Response," dated March 30, 2020.

⁵ See Commerce's Letter, "Sunset Review Initiated on March 2, 2020," dated April 22, 2020.

Scope of the Order

The merchandise subject to this order is prestressed concrete steel wire (PC strand), which is steel strand produced from wire of non-stainless, non-galvanized steel, which is suitable for use in prestressed concrete (both pre-tensioned and post-tensioned) applications. The product definition encompasses covered and uncovered strand and all types, grades, and diameters of PC strand.

The merchandise under this order is currently classifiable under subheadings 7312.10.3010 and 7312.10.3012 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of countervailable subsidies and the net countervailable subsidy likely to prevail if the *Order* were revoked, is provided in the Issues and Decision Memorandum.⁶ A list of the topics discussed in the Issues and Decision Memorandum is attached as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Services System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Final Results of Sunset Review

Pursuant to sections 751(c)(1) and 752(b) of the Act, Commerce determines that revocation of the CVD *Order* on PC strand from India would be likely to lead to continuation or recurrence of countervailable subsidies at the following rate:

⁶ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Expedited Third Sunset Review of the Countervailing Duty Order on Prestressed Concrete Steel Wire Strand from the India," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Producers/exporters	Net countervailable subsidy (percent)
All Manufacturers/Producers/Exporters	62.92

Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

Commerce is issuing and publishing the final results and notice in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act, and 19 CFR 351.218.

Dated: June 23, 2020.

Jeffrey I. Kessler,

Assistant Secretary, for Enforcement and Compliance.

APPENDIX

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. History of the *Order*
- V. Discussion of the Issues
 1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
 2. Net Countervailable Subsidy Likely to Prevail
 3. Nature of the Subsidy
- VI. Final Results of Sunset Review
- VII. Recommendation

[FR Doc. 2020–13946 Filed 6–26–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–849]

Emulsion Styrene-Butadiene Rubber from Brazil: Final Results of Antidumping Duty Administrative Review; 2017–2018

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

SUMMARY: The Department of Commerce (Commerce) finds that ARLANXEO Brasil S.A. (ARLANXEO Brasil) made sales of certain emulsion styrene-

butadiene rubber (ESB rubber) from Brazil at less than normal value during the period of review (POR) February 24, 2017 through August 31, 2018.

DATES: Applicable June 29, 2020.

FOR FURTHER INFORMATION CONTACT: Drew Jackson, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4406.

SUPPLEMENTARY INFORMATION:

Background

On November 14, 2019, Commerce published the *Preliminary Results*.¹ We invited interested parties to comment on the *Preliminary Results*.² This review covers one respondent, ARLANXEO Brasil S.A. (ARLANXEO Brasil). On December 13, 2019, ARLANXEO Brasil filed a case brief³ and on December 23, 2019, the petitioner, Lion Elastomers, LLC, filed a rebuttal brief.⁴ On January 29, 2019, Commerce held a public hearing.⁵ On February 10, 2020, Commerce extended the deadline for issuing the final results of this review by 42 days.⁶ On April 17, 2020, Commerce extended the deadline for issuing the final results of this review by an additional 18 days.⁷ On April 24, 2020,

¹ See *Emulsion Styrene-Butadiene Rubber from Brazil: Preliminary Results of Antidumping Duty Administrative Review; 2017–2018*, 84 FR 61889 (November 14, 2019) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

² *Id.*

³ See ARLANXEO Brasil's Letter, "Emulsion Styrene-Butadiene Rubber from Brazil: ARLANXEO's Case Brief," dated December 13, 2019.

⁴ Commerce rejected the petitioner's December 23, 2019 rebuttal brief because it contained untimely filed new factual information. See Commerce's Letter, "Antidumping Duty Administrative Review of Emulsion Styrene-Butadiene Rubber from Brazil: Rejection of Rebuttal Brief," dated January 16, 2020. On January 17, 2020, the petitioner submitted a redacted rebuttal brief, which Commerce also rejected because it contained additional revisions that were not requested by Commerce. See Commerce's Letter, "Antidumping Duty Administrative Review of Emulsion Styrene-Butadiene Rubber from Brazil: Rejection of Lion Elastomers, LLC's January 17, 2020 Rebuttal Brief," dated January 31, 2020. On January 31, 2020, the petitioner refiled its redacted rebuttal brief. See Petitioner's Letter, "Antidumping Review of Emulsion Styrene-Butadiene Rubber (E-SBR) from Brazil: Rebuttal Brief," dated January 31, 2020.

⁵ See Public Hearing Transcript (undated), submitted February 5, 2020.

⁶ See Memorandum, "Emulsion Styrene Butadiene Rubber from Brazil: Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2017–2018," dated February 10, 2020.

⁷ See Memorandum, "Emulsion Styrene Butadiene Rubber from Brazil: Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2017–2018," dated April 17, 2020.

Commerce tolled all deadlines in administrative reviews by 50 days, thereby extending the deadline for these results until July 1, 2020.⁸ Commerce conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise covered by the order is certain emulsion styrene-butadiene rubber from Brazil. The merchandise subject to this order is currently classifiable under subheadings 4002.19.0015 and 4002.19.0019 of the Harmonized Tariff Schedule of the United States (HTSUS). ESB rubber is described by Chemical Abstract Services (CAS) Registry No. 9003–55–8. This CAS number also refers to other types of styrene butadiene rubber. Although the HTSUS subheadings and CAS registry number are provided for convenience and customs purposes, the written description of the scope of this order is dispositive. For a full description of the scope, *see* the Issues and Decision Memorandum.⁹

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised and to which we responded is attached to this notice as an Appendix. 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>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/index.html>. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and an analysis of the comments received from parties regarding the *Preliminary*

Results, we have made changes to the weighted-average dumping margin for ARLANXEO Brasil. For detailed information, *see* the Issues and Decision Memorandum.

Final Results of the Review

As a result of this review, Commerce determines that the following weighted-average dumping margin exists for the period February 24, 2017 through August 31, 2018:

Exporter/producer	Weighted-average margin (percent)
ARLANXEO Brasil S.A.	21.22

Disclosure of Calculations

We intend to disclose the calculations performed for these final results within five days of the date of publication of this notice to parties in this proceeding, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protections (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. We will calculate importer-specific assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for each importer's examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1).

Commerce's "automatic assessment" practice will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.¹⁰

We intend to issue liquidation instructions to CBP 15 days after publication of the final results of this review.

¹⁰ For a full discussion of this practice, *see* *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for ARLANXEO Brasil S.A. will be equal to the weighted-average dumping margin established in the final results of this review; (2) for merchandise exported by companies not covered in this review but covered in a prior segment of this proceeding, the cash deposit will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review or the original investigation, but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 19.61 percent, the all-others rate established in the less-than-fair-value investigation.¹¹ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order (APO)

This notice serves as the only reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations

¹¹ *See* *Emulsion Styrene-Butadiene Rubber from Brazil: Final Affirmative Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 82 FR 33048 (July 19, 2019).

⁸ *See* Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19," dated April 24, 2020.

⁹ *See* Memorandum, "Issues and Decision Memorandum for the Final Results of the 2017–2018 Administrative Review of the Antidumping Order on Emulsion Styrene-Butadiene Rubber from Brazil," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

and the terms of an APO is a sanctionable violation.

Notice to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 23, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Final Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes Since the Preliminary Results
- V. Discussion of the Issues
 - Comment 1: Whether Sales Occurred at Different Levels of Trade
 - Comment 2: Whether to Deduct *Impostos Sobre Productos Industrializados* (IPI) Taxes from Home-Market Price
 - Comment 3: Preliminary Margin Calculations
- VI. Recommendation

[FR Doc. 2020–13945 Filed 6–26–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–944]

Certain Oil Country Tubular Goods From the People's Republic of China: Final Results of the Expedited Second Sunset Review of the Countervailing Duty Order

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

SUMMARY: The Department of Commerce (Commerce) finds that revocation of the countervailing duty (CVD) order on certain oil country tubular goods (OCTG) from the People's Republic of China (China) would be likely to lead to continuation or recurrence of countervailable subsidies.

DATES: Applicable June 29, 2020.

FOR FURTHER INFORMATION CONTACT: Dusten Hom or Mary Kolberg, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–5075 or (202) 482–1785, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 20, 2010, Commerce published the countervailing duty order

on OCTG from China.¹ On April 1, 2020, Commerce published the initiation of the second sunset review of this order, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).² On April 14, 2020, Commerce received a notice of intent to participate from Maverick Tube Corporation, Tenaris Bay City, Inc., and IPSCO Tubulars Inc. (collectively, Tenaris USA), and on April 16, 2020, Commerce received a notice of intent to participate from United States Steel Corporation (U.S. Steel), Vallourec Star, L.P. and Welded Tube USA, Inc. (collectively, Vallourec USA), and BENTELER Steel/Tube Manufacturing Corp. (BENTELER).³ All notices of intent to participate were filed within the deadline specified in 19 CFR 351.218(d)(1)(i). Tenaris USA, U.S. Steel, Vallourec USA, and BENTELER (collectively, domestic interested parties) claimed interested party status under section 771(9)(C) of the Act as producers of OCTG in the United States.

On May 1, 2020, Commerce received an adequate substantive response from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3).⁴ Commerce did not receive any submissions from any other interested parties. Because Commerce did not receive a substantive response from either the Government of China (GOC) or the respondent interested parties who are producers or exporters of OCTG, we determined that respondent interested parties provided inadequate responses to Commerce's notice of initiation.

On May 22, 2020, Commerce notified the U.S. International Trade Commission that it did not receive an

¹ See *Certain Oil Country Tubular Goods from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 75 FR 3203 (January 20, 2010) (CVD Order).

² See *Initiation of Five-Year ("Sunset") Review*, 85 FR 18189 (April 1, 2020).

³ See Tenaris USA's Letter, "Notice of Intent to Participate in Second Sunset Reviews of the Antidumping and

Countervailing Duty Orders on Oil Country Tubular Goods from the People's Republic of China," dated April 14, 2020; see also U.S. Steel's Letter, "Five-Year ("Sunset") Review of Antidumping and Countervailing Duty Orders on Oil Country Tubular Goods from China: Notice of Intent to Participate"; Vallourec USA's Letter, "Oil Country Tubular Goods from the People's Republic of China, Second Sunset Review: Notice of Intent to Participate"; and BENTELER's Letter, "Notice of Intent to Participate in Second Sunset Reviews of the Antidumping and Countervailing Duty Orders on Oil Country Tubular Goods from the People's Republic of China"; each dated April 16, 2020.

⁴ See Domestic Interested Parties' Letter, "Oil Country Tubular Goods from the People's Republic of China: Substantive Response of the Domestic Industry to Commerce's Notice of Initiation of Five-Year ("Sunset") Review," dated May 1, 2020.

adequate substantive response from respondent interested parties.⁵ As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(B)–(C), Commerce is conducting an expedited (120-day) sunset review of the CVD Order.

Scope of the Order

Imports covered by the order are shipments of certain oil country tubular goods, which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (e.g., whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the order also covers OCTG coupling stock. Excluded from the scope of the order are casing or tubing containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors.

The merchandise subject to this order may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10, 7304.29.41.20, 7304.29.41.30, 7304.29.41.40, 7304.29.41.50, 7304.29.41.60, 7304.29.41.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.61.15, 7304.29.61.30, 7304.29.61.45, 7304.29.61.60, 7304.29.61.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.29.10.30, 7306.29.10.90, 7306.29.20.00, 7306.29.31.00, 7306.29.41.00, 7306.29.60.10, 7306.29.60.50, 7306.29.81.10, and 7306.29.81.50.

⁵ See Commerce's Letter, "Sunset Reviews Initiated April 1, 2020," dated May 22, 2020.

The OCTG coupling stock covered by the order may also enter under the following HTSUS item numbers:

7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.39.00.76, 7304.39.00.80, 7304.59.60.00, 7304.59.80.15, 7304.59.80.20, 7304.59.80.25, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, 7304.59.80.70, and 7304.59.80.80.

Although HTSUS subheadings are provided for convenience and customs

purposes, the written description of the scope of this order is dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the Issues and Decision Memorandum⁶ and listed in the appendix to this notice, including the likelihood of continuation or recurrence of a countervailable subsidy and the net countervailable subsidy likely to prevail if the order were revoked. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://>

access.trade.gov. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://enforcement.trade.gov/frn>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Final Results of Review

Pursuant to sections 751(c)(1) and 752(b)(1) and (3) of the Act, we determine that revocation of the *CVD Order* would be likely to lead to continuation or recurrence of countervailable subsidies at the following net countervailable subsidy rates:

Exporter/manufacturer	Net subsidy rate (percent)
Jiangsu Changbao Steel Tube Co. and Jiangsu Changbao Precision Steel Tube Co., Ltd	22.87
Tianjin Pipe (Group) Co., Tianjin Pipe Iron Manufacturing Co., Ltd., Tianguan Yuantong Pipe Product Co., Ltd., Tianjin Pipe International Economic and Trading Co., Ltd., and TPCO Charging Development Co., Ltd	20.90
Wuxi Seamless Pipe Co, Ltd., Jiangsu Fanli Steel Pipe Co, Ltd., and Tuoketuo County Mengfeng Special Steel Co., Ltd	25.36
Zhejiang Jianli Enterprise Co., Ltd., Zhejiang Jianli Steel Tube Co., Ltd., Zhuji Jiansheng Machinery Co., Ltd., and Zhejiang Jianli Industry Group Co., Ltd	26.19
All Others	23.82

Administrative Protective Order (APO)

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective orders is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these results and notice in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act, and 19 CFR 351.218.

Dated: June 23, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary

II. History of the Order

III. Background

IV. Scope of the Order

V. Discussion of the Issues

1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
2. Net Countervailable Subsidy Likely to Prevail
3. Nature of the Subsidies

VI. Final Results of Review

VII. Recommendation

[FR Doc. 2020–13947 Filed 6–26–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–552–829]

Passenger Vehicle and Light Truck Tires From the Socialist Republic of Vietnam: Initiation of Countervailing Duty Investigation

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

DATES: Applicable June 22, 2020.

FOR FURTHER INFORMATION CONTACT:

Thomas Schauer; AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0410.

SUPPLEMENTARY INFORMATION:

The Petition

On May 13, 2020, the Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of passenger vehicle and light truck tires (passenger tires) from the Socialist Republic of Vietnam (Vietnam) filed in proper form on behalf of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC (the petitioner).¹ The petition was accompanied by antidumping duty (AD) petitions concerning imports of passenger tires from Vietnam, Republic of Korea, Taiwan, and Thailand.²

⁶ See Memorandum, “Issues and Decision Memorandum for the Final Results of the Second Expedited Five-Year Sunset Review of the Countervailing Duty Order on certain Oil Country Tubular Goods from the People’s Republic of

China,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

¹ See Petitioner’s Letter, “Passenger vehicle and light truck tires from the Republic of Korea, Taiwan,

Thailand, and the Socialist Republic of Vietnam—Petition for the Imposition of Antidumping and Countervailing Duties,” dated May 13, 2020 (the Petition).

² *Id.*

Between May 18 and June 8, 2020, Commerce requested supplemental information pertaining to certain aspects of the Petition.³ The petitioner filed responses to these requests on May 20 and June 10, 2020.⁴

On May 21, 2020, Commerce extended the initiation deadline by 20 days to poll the domestic industry in accordance with section 702(c)(4)(D) of the Act, because it was not “clear from the Petitions whether the industry support criteria have been met”⁵

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of Vietnam (GOV) is providing countervailable subsidies within the meaning of sections 701 and 771(5) of the Act, and that imports of such products are materially injuring, or threatening material injury to, the passenger tires industry in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the Petition was accompanied by information reasonably available to the petitioner supporting its allegation.

Commerce finds that the petitioner is an interested party, as defined in section 771(9)(D) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested CVD investigation.⁶

Period of Investigation

Because the Petition was filed on May 13, 2020, the period of investigation is January 1, 2019 through December 31, 2019.⁷

³ See Commerce’s Letters, “Passenger Vehicle and Light Truck Tires from Korea, Taiwan, Thailand, and Vietnam: Response to Supplemental Questions,” dated May 20, 2020 (General Issues Supplemental); and Country-Specific Supplemental Questionnaires: “Petition for the Imposition of Countervailing Duties on Imports of Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam: Supplemental Questions,” dated May 18, 2020 and “Petition for the Imposition of Countervailing Duties on Imports of Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam: Additional Supplemental Question” dated June 8, 2020.

⁴ See the Petitioner’s Country-Specific Supplemental Responses, “Passenger Vehicle and Light Truck Tires from Vietnam: Response to Supplemental Questions,” dated May 20, 2020; see also Petitioner’s Letter, “Passenger Vehicle and Light Truck Tires from Vietnam: Response to Supplemental Questions,” dated June 10, 2020.

⁵ See *Notice of Extension of the Deadline for Determining the Adequacy of the Antidumping and Countervailing Duty Petitions: Passenger Vehicle and Light Truck Tires from Korea, Taiwan, Thailand, and Vietnam*, 85 FR 32013 (May 28, 2020) (*Initiation Extension Notice*).

⁶ See *infra*, section on “Determination of Industry Support for the Petition.”

⁷ See 19 CFR 351.204(b)(2).

Scope of the Investigation

The products covered by this investigation are passenger tires from Vietnam. For a full description of the scope of this investigation, see the Appendix to this notice.

Comments on the Scope of the Investigation

As discussed in the *Preamble* to Commerce’s regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).⁸ Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,⁹ all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on July 13, 2020, which is the next business day after 20 calendar days from the signature date of this notice.¹⁰ Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on July 23, 2020, which is ten calendar days from the initial comment deadline.¹¹

Commerce requests that any factual information parties consider relevant to the scope of the investigation be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All such comments must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance’s Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.¹² An

⁸ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁹ See 19 CFR 351.102(b)(21) (defining “factual information”).

¹⁰ In this case, 20 days after initiation falls on July 12, 2020, a Sunday. Where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. See *Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

¹¹ See 19 CFR 351.303(b).

¹² See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR

electronically filed document must be received successfully in its entirety by the time and date it is due.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified representatives of the GOV of the receipt of the Petition and provided it the opportunity for consultations with respect to the Petition.¹³ Consultations were held with the GOV on April 27, 2020.¹⁴ The GOV submitted consultation remarks on June 16, 2020.¹⁵

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus,

39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce’s electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.

¹³ See Commerce’s Letter, “Countervailing Duty Petition on Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam; Invitation for Consultations to Discuss the Countervailing Duty Petition,” dated May 14, 2020.

¹⁴ See Memorandum, “Consultations with Officials from the Government of the Socialist Republic of Vietnam Regarding the Countervailing Duty Investigation of Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam,” dated June 2, 2020.

¹⁵ See GOV’s Letter, “Submission of Viet Nam regarding the Petition for the initiation of antidumping, anti-subsidy investigations on imports of passenger vehicles and light trucks tires (PVL T Tires) from Viet Nam,” dated June 16, 2020.

to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹⁶ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁷

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.¹⁸ Based on our analysis of the information submitted on the record, we have determined that passenger tires, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁹

On May 21, 2020, Commerce extended the initiation deadline by 20 days to poll the domestic industry in accordance with section 702(c)(4)(D) of the Act, because it was not “clear from

the Petitions whether the industry support criteria have been met”²⁰

On May 22, 2020, we issued polling questionnaires to all known producers identified in the Petition, as well as unions, employee organizations, or *ad hoc* groups of workers involved in the production of passenger tires.²¹ We requested that the companies/workers complete the polling questionnaire and certify their responses by the due date specified in the cover letter to the questionnaire.²²

Our analysis of the data we received in the polling questionnaire responses indicates that the domestic producers and workers who support the Petition account for at least 25 percent of the total production of the domestic like product and more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.²³ Accordingly, Commerce determines that the industry support requirements of section 702(c)(4)(A) have been met and that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.²⁴

Injury Test

Because Vietnam is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from Vietnam materially injure, or threaten material injury to, a U.S. industry

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the

negligibility threshold provided for under section 771(24)(A) of the Act.²⁵

The petitioner contends that the industry’s injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; underselling and price depression or suppression; production and shipments lagging behind demand; declines in capacity utilization and employment; and declining financial performance.²⁶ We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²⁷

Initiation of CVD Investigation

Based upon the examination of the Petition and supplemental responses, we find that they meet the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of passenger tires from Vietnam benefit from countervailable subsidies conferred by the GOV. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Based on our review of the petition, we find that there is sufficient information to initiate a CVD investigation on all alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* Vietnam CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

Respondent Selection

In the Petition, the petitioner named 13 companies²⁸ as producers/exporters of passenger tires. Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates for each company. In the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon its resources,

¹⁶ See section 771(10) of the Act.

¹⁷ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

¹⁸ See Volume I of the Petition at 3–5, and Exhibits I–1 and I–3.

¹⁹ For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* Countervailing Duty Investigation Initiation Checklist: Passenger Vehicle and Light Truck Tires from Vietnam (Vietnam CVD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Passenger Vehicle and Light Truck Tires from Korea, Taiwan, Thailand, and Vietnam (Attachment II). The checklist is dated concurrently with this notice and on file electronically via ACCESS.

²⁰ See *Initiation Extension Notice*; *see also* Vietnam CVD Initiation Checklist at Attachment II.

²¹ See Memorandum, “Passenger Vehicle and Light Truck Tires from Korea, Taiwan, Thailand, and Vietnam: Polling Questionnaire,” dated May 22, 2020; *see also* Volume I of the Petition at 5–6 and Exhibit I–2; and General Issues Supplemental at 3 and Exhibit 1.

²² For a detailed discussion of the responses received, *see* Vietnam CVD Initiation Checklist at Attachment II. The polling questionnaire and questionnaire responses are on file electronically via ACCESS.

²³ See Vietnam CVD Initiation Checklist at Attachment II.

²⁴ *Id.*

²⁵ See Volume I of the Petitions at 19–20 and Exhibit I–9.

²⁶ See Volume I of the Petitions at 23–37 and Exhibits I–3, I–9, and I–11 through I–15.

²⁷ See CVD Vietnam Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Passenger Vehicle and Light Truck Tires from Korea, Taiwan, Thailand, and Vietnam.

²⁸ See Volume I of the Petition at 14 and Exhibit I–8.

where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the “Scope of the Investigation,” in the appendix to this notice.

On June 16, 2020, Commerce released CBP data on imports of passenger tires from Vietnam under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data or respondent selection must do so within three business days of the publication date of the notice of initiation of this CVD investigation.²⁹ Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety via ACCESS by 5:00 p.m. ET on the specified deadline. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce’s website at <http://enforcement.trade.gov/apo>.

Distribution of Copies of the CVD Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOV via ACCESS. To the extent practicable, Commerce will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of passenger tires from Vietnam are materially injuring, or threatening material injury to, a U.S. industry. A negative ITC determination will result in the investigation being terminated. Otherwise, this investigation will proceed according to statutory and regulatory time limits.

²⁹ See Memorandum, “Countervailing Duty Investigation of Passenger Tires: Release of Customs Data from U.S. Customs and Border Protection,” dated June 16, 2020.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted³⁰ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.³¹ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extension of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances Commerce will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits*, 78 FR 57790 (September 20, 2013), available at [http://www.gpo.gov/fdsys/pkg/FR-2013-](http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm)

³⁰ See 19 CFR 351.301(b).

³¹ See 19 CFR 351.301(b)(2).

[09-20/html/2013-22853.htm](http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm), prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.³² Parties must use the certification formats provided in 19 CFR 351.303(g).³³ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Commerce website at <http://enforcement.trade.gov/apo>. Parties wishing to participate in this investigation should ensure that they meet the requirements of 19 CFR 351.103(d) (e.g., by filing a notice of appearance). Note that Commerce has temporarily modified certain portions of its requirements for serving documents containing business proprietary information, until July 17, 2020, unless extended.³⁴

This notice is issued and published pursuant to sections 702(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: June 22, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Investigation

The scope of this investigation is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation. Tires covered by this investigation may be tube-type, tubeless, radial, or non-radial, and they may be intended for sale to original equipment manufacturers or the replacement market.

Subject tires have, at the time of importation, the symbol “DOT” on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have the following prefixes or suffix in their tire size

³² See section 782(b) of the Act.

³³ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

³⁴ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19: Extension of Effective Period*, 85 FR 29615 (May 18, 2020).

designation, which also appears on the sidewall of the tire:

Prefix designations:

P—Identifies a tire intended primarily for service on passenger cars.

LT—Identifies a tire intended primarily for service on light trucks.

Suffix letter designations:

LT—Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service.

All tires with a “P” or “LT” prefix, and all tires with an “LT” suffix in their sidewall markings are covered by this investigation regardless of their intended use.

In addition, all tires that lack a “P” or “LT” prefix or suffix in their sidewall markings, as well as all tires that include any other prefix or suffix in their sidewall markings, are included in the scope, regardless of their intended use, as long as the tire is of a size that fits passenger cars or light trucks. Sizes that fit passenger cars and light trucks include, but are not limited to, the numerical size designations listed in the passenger car section or light truck section of the Tire and Rim Association Year Book, as updated annually. The scope includes all tires that are of a size that fits passenger cars or light trucks, unless the tire falls within one of the specific exclusions set out below.

Passenger vehicle and light truck tires, whether or not attached to wheels or rims, are included in the scope. However, if a subject tire is imported attached to a wheel or rim, only the tire is covered by the scope.

Specifically excluded from the scope are the following types of tires:

(1) Racing car tires; such tires do not bear the symbol “DOT” on the sidewall and may be marked with “ZR” in size designation;

(2) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires;

(3) non-pneumatic tires, such as solid rubber tires;

(4) tires designed and marketed exclusively as temporary use spare tires for passenger vehicles which, in addition, exhibit each of the following physical characteristics:

(a) The size designation and load index combination molded on the tire’s sidewall are listed in Table PCT–1B (“T” Type Spare Tires for Temporary Use on Passenger Vehicles) or PCT–1B (“T” Type Diagonal (Bias) Spare Tires for Temporary Use on Passenger Vehicles) of the Tire and Rim Association Year Book,

(b) the designation “T” is molded into the tire’s sidewall as part of the size designation, and,

(c) the tire’s speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed is 81 MPH or a “M” rating;

(5) tires designed and marketed exclusively for specialty tire (ST) use which, in addition, exhibit each of the following conditions:

(a) the size designation molded on the tire’s sidewall is listed in the ST sections of the Tire and Rim Association Year Book,

(b) the designation “ST” is molded into the tire’s sidewall as part of the size designation,

(c) the tire incorporates a warning, prominently molded on the sidewall, that the

tire is “For Trailer Service Only” or “For Trailer Use Only”,

(d) the load index molded on the tire’s sidewall meets or exceeds those load indexes listed in the Tire and Rim Association Year Book for the relevant ST tire size, and

(e) either

(i) the tire’s speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed does not exceed 81 MPH or an “M” rating; or

(ii) the tire’s speed rating molded on the sidewall is 87 MPH or an “N” rating, and in either case the tire’s maximum pressure and maximum load limit are molded on the sidewall and either

(1) both exceed the maximum pressure and maximum load limit for any tire of the same size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book; or

(2) if the maximum cold inflation pressure molded on the tire is less than any cold inflation pressure listed for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book, the maximum load limit molded on the tire is higher than the maximum load limit listed at that cold inflation pressure for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book;

(6) tires designed and marketed exclusively for off-road use and which, in addition, exhibit each of the following physical characteristics:

(a) The size designation and load index combination molded on the tire’s sidewall are listed in the off-the-road, agricultural, industrial or ATV section of the Tire and Rim Association Year Book,

(b) in addition to any size designation markings, the tire incorporates a warning, prominently molded on the sidewall, that the tire is “Not For Highway Service” or “Not for Highway Use”,

(c) the tire’s speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the Tire and Rim Association Year Book, and the rated speed does not exceed 55 MPH or a “G” rating, and

(d) the tire features a recognizable off-road tread design.

The products covered by this investigation are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, and 4011.20.50.10. Tires meeting the scope description may also enter under the following HTSUS subheadings:

4011.90.10.10, 4011.90.10.50, 4011.90.20.10, 4011.90.20.50, 4011.90.80.10, 4011.90.80.50, 8708.70.45.30, 8708.70.45.46, 8708.70.45.48, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

[FR Doc. 2020–13957 Filed 6–26–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–908, A–583–869, A–549–842, A–552–828]

Passenger Vehicle and Light Truck Tires From the Republic of Korea, Taiwan, Thailand, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations

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

DATES: Applicable June 22, 2020.

FOR FURTHER INFORMATION CONTACT: Alex Villanueva; AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3208.

SUPPLEMENTARY INFORMATION:

The Petitions

On May 13, 2020, the Department of Commerce (Commerce) received antidumping duty (AD) petitions concerning imports of passenger vehicle and light truck tires (passenger tires) from the Republic of Korea (Korea), Taiwan, Thailand, and the Socialist Republic of Vietnam (Vietnam) filed in proper form on behalf of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC (the petitioner).¹ The Petitions were accompanied by a countervailing duty (CVD) petition concerning imports of passenger tires from Vietnam.²

Between May 18 and 22, 2020, Commerce requested supplemental information pertaining to certain aspects of the Petitions in separate supplemental questionnaires.³ The petitioner filed responses to the

¹ See Petitioner’s Letter, “Passenger Vehicle and Light Truck Tires from the Republic of Korea, Taiwan, Thailand, and the Socialist Republic of Vietnam—Petition for the Imposition of Antidumping and Countervailing Duties,” dated May 13, 2020 (the Petitions).

² *Id.*

³ See Commerce’s Letters, “Petitions for the Imposition of Antidumping Duties on Imports of Passenger Vehicle and Light Truck Tires from Korea, Taiwan, Thailand, and Vietnam: Supplemental Questions,” dated May 18, 2020; and “Country-Specific Supplemental Questionnaires: Korea Supplemental, Thailand Supplemental, Taiwan Supplemental, Vietnam Supplemental,” dated May 18, 2020; see also “Petition for the Imposition of Antidumping Duties on Imports of Passenger Vehicle and Light Truck Tires from the Thailand: Second Supplemental Questionnaire,” dated May 21, 2020.

supplemental questionnaires between May 20 and 26, 2020.⁴

On May 21, 2020, Commerce extended the initiation deadline by 20 days to poll the domestic industry in accordance with section 702(c)(4)(D) of the Act, because it was not “clear from the Petitions whether the industry support criteria have been met”⁵

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of passenger tires from Korea, Taiwan, Thailand, and Vietnam are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the passenger tires industry in the United States. Consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(D) of the Act. Commerce also finds that the petitioner has demonstrated sufficient industry support for the initiation of the requested AD investigations.⁶

Periods of Investigation

Because the Petitions were filed on May 13, 2020, the period of investigation (POI) for the Korea, Thailand, and Taiwan investigations is April 1, 2019 through March 31, 2020, and the POI for the Vietnam investigation is October 1, 2019 through March 31, 2020, pursuant to 19 CFR 351.204(b)(1).⁷

Scope of the Investigations

The products covered by these investigations are passenger tires from Korea, Taiwan, Thailand, and Vietnam. For a full description of the scope of these investigations, see the Appendix to this notice.

⁴ See Petitioner’s Country-Specific Supplemental Responses, dated May 20, 2020; see also Petitioner’s Letter, “Passenger Vehicle and Light Truck Tires from the Korea, Taiwan, Thailand, and Vietnam—Petitioner’s Amendment to Volume I Concerning General Issues,” dated May 20, 2020 (General Issues Supplement); and Petitioner’s “Thailand Second Supplemental Responses,” dated May 22, 2020.

⁵ See Notice of Extension of the Deadline for Determining the Adequacy of the Antidumping and Countervailing Duty Petitions: Passenger Vehicle and Light Truck Tires from Korea, Taiwan, Thailand, and Vietnam, 85 FR 32013 (May 28, 2020) (Initiation Extension Notice).

⁶ See *infra*, section on “Determination of Industry Support for the Petitions.”

⁷ See 19 CFR 351.204(b)(1).

Comments on the Scope of the Investigations

As discussed in the *Preamble* to Commerce’s regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).⁸ Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,⁹ all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on July 13, 2020, which is the next business day after 20 calendar days from the signature date of this notice.¹⁰ Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on July 23, 2020, which is ten calendar days from the initial comment deadline.¹¹

Commerce requests that any factual information parties consider relevant to the scope of the investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance’s Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.¹² An

⁸ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁹ See 19 CFR 351.102(b)(21) (defining “factual information”).

¹⁰ In this case, 20 days after initiation falls on July 12, 2020, a Sunday. Where a deadline falls on a weekend or a federal holiday, the appropriate deadline is the next business day. See *Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

¹¹ See 19 CFR 351.303(b).

¹² See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance: Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce’s electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.

electronically filed document must be received successfully in its entirety by the time and date it is due.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of passenger tires to be reported in response to Commerce’s AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant costs of production accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics, and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe passenger tires, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on July 13, 2020, which is the next business day after 20 calendar days from the signature date of this notice.¹³ Any rebuttal comments must be filed by 5:00 p.m. ET on July 23, 2020, which is ten calendar days from the initial comment deadline. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of each of the AD investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the

¹³ See *Next Business Day Rule*, 70 FR at 24533.

domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹⁴ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁵

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a

definition of the domestic like product distinct from the scope of the investigations.¹⁶ Based on our analysis of the information submitted on the record, we have determined that passenger tires, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁷

On May 21, 2020, Commerce extended the initiation deadline by 20 days to poll the domestic industry in accordance with section 732(c)(4)(D) of the Act, because it was not “clear from the Petitions whether the industry support criteria have been met”¹⁸

On May 22, 2020, we issued polling questionnaires to all known producers identified in the Petitions, as well as the USW.¹⁹ We requested that the companies/workers complete the polling questionnaire and certify their responses by the due date specified in the cover letter to the questionnaire.²⁰ The petitioner and Sumitomo²¹ provided comments on the polling questionnaire responses on June 9, 2020.²² The petitioner and Hankook²³

¹⁶ See Volume I of the Petitions at 3–5 and Exhibits I–1 and I–3.

¹⁷ For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, see country-specific AD Initiation Checklists at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Passenger Vehicle and Light Truck Tires from Korea, Taiwan, Thailand, and Vietnam. These checklists are dated concurrently with this notice and on file electronically via ACCESS.

¹⁸ See *Initiation Extension Notice*; see also Attachment II of the country-specific AD Initiation Checklists.

¹⁹ See Memorandum, “Passenger Vehicle and Light Truck Tires from Korea, Taiwan, Thailand, and Vietnam: Polling Questionnaire,” dated May 22, 2020; see also Volume I of the Petitions at 5–6 and Exhibit I–2; and General Issues Supplement at 3 and Exhibit 1.

²⁰ For a detailed discussion of the responses received, see Attachment II of the country-specific AD Initiation Checklists. The polling questionnaire and questionnaire responses are on file electronically via ACCESS.

²¹ Sumitomo Rubber (Thailand), Ltd., Sumitomo Rubber North America, Inc., and Sumitomo Rubber USA, LLC (collectively, Sumitomo). Sumitomo is a foreign producer/exporter in Thailand, a U.S. importer of passenger tires from Thailand, and a U.S. producer of passenger tires. See Sumitomo’s Letter, “Entry of Appearance,” dated May 28, 2020.

²² See Petitioner’s Letter, “Passenger Vehicle and Light Truck Tires from Korea, Taiwan, Thailand, and Vietnam: Industry Support Comments,” dated June 9, 2020; see also Sumitomo’s Letter, “Light Truck Tires from Thailand: Comments Regarding Responses to Polling Questionnaire and Industry Support for Petition,” dated June 9, 2020.

²³ Hankook Tire & Technology Co., Ltd., Hankook Tire America Corp., and Hankook Tire Manufacturing Tennessee, LP (collectively, Hankook). Hankook is a Korean producer/exporter of passenger tires, a U.S. importer of passenger tires from Korea, and a U.S. producer/exporter of

provided rebuttal comments on June 11, 2020.²⁴

Our analysis of the data we received in the polling questionnaire responses indicates that the domestic producers and workers who support the Petitions account for at least 25 percent of the total production of the domestic like product and more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.²⁵ Accordingly, Commerce determines that the industry support requirements of section 732(c)(4)(A) of the Act have been met and that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.²⁶

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁷

The petitioner contends that the industry’s injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; underselling and price depression or suppression; production and shipments lagging behind demand; declines in capacity utilization and employment; and declining financial performance.²⁸ We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²⁹

passenger tires. See Hankook’s Letter, “Entry of Appearance,” dated June 1, 2020.

²⁴ See Petitioner’s Letter, “Passenger Vehicle and Light Truck Tires from Korea, Taiwan, Thailand, and Vietnam: Industry Support Rebuttal Comments,” dated June 11, 2020; see also Hankook’s Letter, “Antidumping Duty Petition on Passenger Vehicle and Light Truck Tires from Korea (A–580–908): Rebuttal Industry Support Comments,” dated June 11, 2020.

²⁵ See Attachment II of the country-specific AD Initiation Checklists.

²⁶ *Id.*

²⁷ See Volume I of the Petitions at 19–20 and Exhibit I–9.

²⁸ See Volume I of the Petitions at 23–37 and Exhibits I–3, I–9, and I–11 through I–15.

²⁹ See country-specific AD Initiation Checklists at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions

¹⁴ See section 771(10) of the Act.

¹⁵ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate AD investigations of imports of passenger tires from Korea, Taiwan, Thailand, and Vietnam. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the country-specific AD Initiation Checklists.

U.S. Price

For Korea, Taiwan, Thailand, and Vietnam, the Petitions base export price (EP) on the average unit value of publicly available import data.³⁰

Normal Value³¹

For Korea, Taiwan, and Thailand, the petitioner based NV on home market price quotes obtained through market research for passenger tires produced in and sold, or offered for sale, in each country within the applicable time period.³² For Taiwan, the petitioner provided information indicating that the price quote was below the cost of production (COP) and, therefore, the petitioner also calculated NV based on constructed value (CV). For further discussion of CV, see the section “Normal Value Based on Constructed Value.”

Commerce considers Vietnam to be a non-market economy (NME) country.³³ In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat Vietnam as a NME country for purposes of the initiation of this investigation. Accordingly, NV in Vietnam is appropriately based on factors of production (FOPs) valued in a surrogate market economy country, in accordance with section 773(c) of the Act.³⁴

Covering Passenger Vehicle and Light Truck Tires from Korea, Taiwan, Thailand, and Vietnam.

³⁰ See country-specific AD Initiation Checklists.

³¹ In accordance with section 505(a) of the Trade Preferences Extension Act of 2015 (TPEA), amending section 773(b)(2) of the Act, for these investigations, Commerce will request information necessary to calculate the constructed value and cost of production (COP) to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. Commerce no longer requires a COP allegation to conduct this analysis.

³² See country-specific AD Initiation Checklists.

³³ See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results, and Final Results of No Shipments of the Antidumping Duty Administrative Review; 2016–2017*, 84 FR 18007 (April 29, 2019).

³⁴ See Vietnam AD Checklist.

The petitioner claims that India is an appropriate surrogate country for Vietnam because India is a market economy country that is at a level of economic development comparable to that of Vietnam and it is a significant producer of comparable merchandise.³⁵ The petitioner provided publicly available information from India to value all FOPs. Based on the information provided by the petitioner, we determine that it is appropriate to use India as a surrogate country for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

Factors of Production

Because the petitioner is not a domestic producer, but a union representing workers in the domestic industry producing the like product of passenger tires, information on the FOPs based on the foreign producers' or domestic producers' own cost experience was not reasonably available to the petitioner. Therefore, to estimate Vietnamese manufacturers' FOPs the petitioner combined the information in thirteen publicly available cost models to create direct materials models that provide the average percentage of total tire weight represented by the direct materials for passenger car tires and for light truck tires.³⁶ The petitioner valued the estimated FOPs using surrogate values from India. The petitioner calculated factory overhead, selling, general and administrative expenses, and profit based on the experience of an Indian producer of passenger tires.³⁷

Normal Value Based on Constructed Value

As noted above, the petitioner provided information indicating that the price charged for passenger tires produced in and sold, or offered for sale, in Taiwan was below the COP. Accordingly, the petitioner also based NV on CV.³⁸ Pursuant to section 773(e) of the Act, the petitioner calculated CV as the sum of the cost of manufacturing, selling, general, and administrative

expenses, financial expenses, and profit.³⁹

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of passenger tires from Korea, Taiwan, Thailand, and Vietnam are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for passenger tires for each of the countries covered by this initiation are as follows: (1) Korea: 42.95 through 195.20 percent; (2) Taiwan: 20.57 through 116.14 percent; (3) Thailand: 106.36 through 217.50 percent; and (4) Vietnam: 5.48 through 22.30 percent.⁴⁰

Initiation of LTFV Investigations

Based upon the examination of the Petitions and supplemental responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of passenger tires from Korea, Taiwan, Thailand, and Vietnam are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Respondent Selection

In the Petitions, the petitioner named nine companies in Korea, 13 companies in Taiwan, and 26 companies in Thailand⁴¹ as producers/exporters of passenger tires.

Following standard practice in AD investigations involving market economy countries, in the event Commerce determines that the number of exporters or producers in any individual case is large such that Commerce cannot individually examine each company based upon its resources, where appropriate, Commerce intends to select mandatory respondents in that case based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the “Scope of the Investigations,” in the appendix.

On June 16, 2020, Commerce released CBP data on imports of passenger tires from Korea, Taiwan, and Thailand under Administrative Protective Order

³⁵ See Volume V of the Petition at 3–5 and Exhibits V–1, V–2, and V–3.

³⁶ See Volume V of the Petition at 8–15 and Exhibit 22.

³⁷ See Vietnam AD Checklist.

³⁸ See Taiwan AD Checklist.

³⁹ *Id.*

⁴⁰ See country-specific Initiation Checklists for details of calculations.

⁴¹ See Volume I of the Petition at 14 and Exhibit I–8.

(APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data must do so within three business days of the publication date of the notice of initiation of these investigations.⁴² Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety via ACCESS by 5:00 p.m. ET on the specified deadline. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at <http://enforcement.trade.gov/apo>.

With respect to Vietnam, the petitioner named 13 companies⁴³ as producers/exporters of passenger tires in the Petitions. In accordance with our standard practice for respondent selection in AD investigations involving NME countries, Commerce selects respondents based on quantity and value (Q&V) questionnaires in cases where it has determined that the number of companies is large and it cannot individually examine each company based upon its resources. Therefore, considering the number of Vietnamese producers and exporters identified in the Petitions, Commerce will solicit Q&V information that can serve as a basis for selecting exporters for individual examination in the event that Commerce decides to limit the number of respondents individually examined pursuant to section 777A(c)(2) of the Act. Given that there are 13 producers and exporters identified in the Petitions, Commerce has determined that it will issue Q&V questionnaires to each potential respondent for which the petitioner has provided a complete address.

In addition, Commerce will post the Q&V questionnaire along with filing instructions on Enforcement and Compliance's website at <https://www.trade.gov/ec-adcvd-case-announcements>. Producers/exporters of passenger tires from Vietnam that do not receive Q&V questionnaires may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Enforcement and Compliance's website. In accordance with the standard

practice for respondent selection in AD cases involving NME countries, in the event Commerce decides to limit the number of respondents individually investigated, Commerce intends to base respondent selection on the responses to the Q&V questionnaire that it receives.

Responses to the Q&V questionnaire must be submitted by the relevant Vietnamese producers/exporters no later than 5:00 p.m. ET on July 8, 2020. All Q&V questionnaire responses must be filed electronically via ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above. Commerce intends to finalize its decisions regarding respondent selection within 20 days of publication of this notice.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.⁴⁴ The specific requirements for submitting a separate-rate application in a Vietnam investigation are outlined in detail in the application itself, which is available on Commerce's website at <http://enforcement.trade.gov/nme/nme-sep-rate.html>. The separate-rate application will be due 30 days after publication of this initiation notice.⁴⁵ Exporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from Vietnam submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V questionnaire response will not receive separate rate consideration.

Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

⁴⁴ See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving NME Countries (April 5, 2005), available at <http://enforcement.trade.gov/policy/bull05-1.pdf> (Policy Bulletin 05.1).

⁴⁵ Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that "the Secretary may request any person to submit factual information at any time during a proceeding," this deadline is now 30 days.

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.⁴⁶

Distribution of Copies of the AD Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the AD Petitions have been provided to the governments of Korea, Taiwan, Thailand, and Vietnam via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the AD Petitions to each exporter named in the AD Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 25 days after the date on which the ITC receives notice from Commerce of initiation of the investigations, whether there is a reasonable indication that imports of passenger tires from Korea, Taiwan, Thailand, and Vietnam are materially injuring, or threatening material injury to, a U.S. industry.⁴⁷ A negative ITC determination for any country will result in the investigation being terminated with respect to that country.⁴⁸ Otherwise, these AD investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the

⁴² See Memorandum, "Antidumping Duty Investigation of Passenger Tires: Release of Customs Data from U.S. Customs and Border Protection," dated June 16, 2020.

⁴³ See Volume I of the Petition at 14 and Exhibit I-8.

⁴⁶ See Policy Bulletin 05.1 at 6 (emphasis added).

⁴⁷ See section 733(a) of the Act.

⁴⁸ *Id.*

adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted⁴⁹ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.⁵⁰ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Particular Market Situation Allegation

Section 504 of the TPEA amended the Act by adding the concept of particular market situation (PMS) for purposes of CV under section 773(e) of the Act.⁵¹ Section 773(e) of the Act states that “if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.” When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act, nor 19 CFR 351.301(c)(2)(v), set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent's initial section D questionnaire response.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.⁵² Parties must use the certification formats provided in 19 CFR 351.303(g).⁵³ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Commerce website at <http://enforcement.trade.gov/apo>. Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed at 19 CFR

351.103(d)). Note that Commerce has temporarily modified certain portions of its requirements for serving documents containing business proprietary information, until July 17, 2020, unless extended.⁵⁴

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: June 22, 2020.

Joseph A. Laroski Jr.,

Deputy Assistant Secretary for Policy and Negotiations.

Appendix—Scope of the Investigations

The scope of these investigations is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation. Tires covered by these investigations may be tube-type, tubeless, radial, or non-radial, and they may be intended for sale to original equipment manufacturers or the replacement market.

Subject tires have, at the time of importation, the symbol “DOT” on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have the following prefixes or suffix in their tire size designation, which also appears on the sidewall of the tire:

Prefix designations:

P—Identifies a tire intended primarily for service on passenger cars.

LT—Identifies a tire intended primarily for service on light trucks.

Suffix letter designations:

LT—Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service.

All tires with a “P” or “LT” prefix, and all tires with an “LT” suffix in their sidewall markings are covered by these investigations regardless of their intended use.

In addition, all tires that lack a “P” or “LT” prefix or suffix in their sidewall markings, as well as all tires that include any other prefix or suffix in their sidewall markings, are included in the scope, regardless of their intended use, as long as the tire is of a size that fits passenger cars or light trucks. Sizes that fit passenger cars and light trucks include, but are not limited to, the numerical size designations listed in the passenger car section or light truck section of the Tire and Rim Association Year Book, as updated annually. The scope includes all tires that are of a size that fits passenger cars or light trucks, unless the tire falls within one of the specific exclusions set out below.

Passenger vehicle and light truck tires, whether or not attached to wheels or rims, are included in the scope. However, if a subject tire is imported attached to a wheel or rim, only the tire is covered by the scope.

Specifically excluded from the scope are the following types of tires:

⁵⁴ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 29615 (May 18, 2020).

⁴⁹ See 19 CFR 351.301(b).

⁵⁰ See 19 CFR 351.301(b)(2).

⁵¹ See TPEA, Pub. L. 114–27, 129 Stat. 362 (2015).

⁵² See section 782(b) of the Act.

⁵³ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

(1) Racing car tires; such tires do not bear the symbol "DOT" on the sidewall and may be marked with "ZR" in size designation;

(2) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires;

(3) non-pneumatic tires, such as solid rubber tires;

(4) tires designed and marketed exclusively as temporary use spare tires for passenger vehicles which, in addition, exhibit each of the following physical characteristics:

(a) The size designation and load index combination molded on the tire's sidewall are listed in Table PCT-1B ("T" Type Spare Tires for Temporary Use on Passenger Vehicles) or PCT-1B ("T" Type Diagonal (Bias) Spare Tires for Temporary Use on Passenger Vehicles) of the Tire and Rim Association Year Book,

(b) the designation "T" is molded into the tire's sidewall as part of the size designation, and,

(c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed is 81 MPH or a "M" rating;

(5) tires designed and marketed exclusively for specialty tire (ST) use which, in addition, exhibit each of the following conditions:

(a) The size designation molded on the tire's sidewall is listed in the ST sections of the Tire and Rim Association Year Book,

(b) the designation "ST" is molded into the tire's sidewall as part of the size designation,

(c) the tire incorporates a warning, prominently molded on the sidewall, that the tire is "For Trailer Service Only" or "For Trailer Use Only",

(d) the load index molded on the tire's sidewall meets or exceeds those load indexes listed in the Tire and Rim Association Year Book for the relevant ST tire size, and

(e) either

(i) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed does not exceed 81 MPH or an "M" rating; or

(ii) the tire's speed rating molded on the sidewall is 87 MPH or an "N" rating, and in either case the tire's maximum pressure and maximum load limit are molded on the sidewall and either

(1) both exceed the maximum pressure and maximum load limit for any tire of the same size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book; or

(2) if the maximum cold inflation pressure molded on the tire is less than any cold inflation pressure listed for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book, the maximum load limit molded on the tire is higher than the maximum load limit listed at that cold inflation pressure for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book;

(6) tires designed and marketed exclusively for off-road use and which, in addition, exhibit each of the following physical characteristics:

(a) The size designation and load index combination molded on the tire's sidewall

are listed in the off-the-road, agricultural, industrial or ATV section of the Tire and Rim Association Year Book,

(b) in addition to any size designation markings, the tire incorporates a warning, prominently molded on the sidewall, that the tire is "Not For Highway Service" or "Not for Highway Use",

(c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the Tire and Rim Association Year Book, and the rated speed does not exceed 55 MPH or a "G" rating, and

(d) the tire features a recognizable off-road tread design.

The products covered by these investigations are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings:

4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.10.80, 4011.20.10.05, and 4011.20.50.10. Tires meeting the scope description may also enter under the following HTSUS subheadings:

4011.90.10.10, 4011.90.10.50, 4011.90.20.10, 4011.90.20.50, 4011.90.80.10, 4011.90.80.50, 8708.70.45.30, 8708.70.45.46, 8708.70.45.48, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60. While HTSUS

subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

[FR Doc. 2020-13958 Filed 6-26-20; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

U.S. Department of Commerce Trade Finance Advisory Council; Meeting

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The U.S. Department of Commerce Trade Finance Advisory Council (TFAC or Council) will hold a meeting via a teleconference or a videoconference on Thursday, July 16, 2020. The meeting is open to the public with registration instructions provided below.

DATES: Thursday, July 16, 2020, from approximately 12:45 p.m. to 3:15 p.m. Eastern Time (ET). The deadline for members of the public to register, including requests to make comments during the meeting or to submit written comments for dissemination prior to the meeting, is 5:00 p.m. ET on Wednesday, July 8, 2020. Registration, comments, and any requests should be submitted via email to TFAC@trade.gov.

ADDRESSES: The meeting will be held via a teleconference or a videoconference. The call-in number

and passcode and/or the log-in details will be provided by email to registrants. Requests to register and any written comments should be submitted via email to TFAC@trade.gov.

FOR FURTHER INFORMATION CONTACT:

Yuki Fujiyama, TFAC Designated Federal Officer (DFO) and Executive Secretary, Office of Finance and Insurance Industries, International Trade Administration, U.S. Department of Commerce at (202) 482-3468; email: Yuki.Fujiyama@trade.gov.

SUPPLEMENTARY INFORMATION:

Background: The TFAC was established on August 11, 2016, pursuant to discretionary authority and in accordance with the Federal Advisory Committee Act, as amended, 5 U.S.C. App., and re-chartered for a second two-year term on August 9, 2018. The TFAC serves as the principal advisory body to the Secretary of Commerce on policy matters relating to access to trade finance for U.S. exporters, including small- and medium-sized enterprises, and their foreign buyers. The TFAC is the mechanism by which the Department of Commerce (the Department) convenes private sector stakeholders to identify and develop consensus-based solutions to trade finance challenges. The Council is comprised of a diverse group of stakeholders from the trade finance industry and the U.S. exporting community, as well as experts from academia and public policy organizations.

On Thursday, July 16, 2020, the TFAC will hold the sixth and final meeting of its second (2018-2020) charter term via a teleconference or a videoconference. During this meeting, members are expected to discuss possible recommendations on policies and programs that can increase awareness of, and expand access to, export financing resources for U.S. exporters. Meeting minutes will be available within 90 days of the meeting upon request or on the TFAC's website at <https://www.trade.gov/about-us/trade-finance-advisory-committee>.

Public Participation: The meeting will be open to the public and there will be limited time permitted for public comments. In order to be considered at the meeting, comments from members of the public must be submitted by the deadline identified under the **DATE** caption. Requests from members of the public to participate in the meeting must be received by the same date. Request should be submitted electronically to TFAC@trade.gov. Last minute requests will be accepted, but may not be possible to accommodate.

Members of the public may submit written comments concerning TFAC affairs at any time before or after a meeting. Comments may be submitted to TFAC DFO Yuki Fujiyama, at the contact information indicated above. All comments and statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure.

Michael Fuchs,

Acting Director, Office of Finance and Insurance Industries, Industry & Analysis, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 2020–13980 Filed 6–26–20; 8:45 am]

BILLING CODE 3510-DR-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–054]

Certain Aluminum Foil From the People's Republic of China: Preliminary Results of the Countervailing Duty Administrative Review and Rescission of Review, in Part; 2017–2018

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain aluminum foil (aluminum foil) from the People's Republic of China (China). The period of review is August 14, 2017 through December 31, 2018.

DATES: Applicable June 29, 2020.

FOR FURTHER INFORMATION CONTACT: Yasmin Bordas, Tyler Weinhold or John McGowan, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3813, (202) 482–1121 or (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 13, 2019, Commerce published a notice of initiation of an administrative review of the countervailing duty (CVD) order¹ on

aluminum foil from China.² On July 15, 2019, Commerce published a correction of the original *Initiation Notice* to list the correct period of review (POR).³ Pursuant to the *Corrected Initiation Notice*, the correct POR is August 14, 2017 through December 31, 2018.⁴ On December 2, 2020, Commerce fully extended the preliminary results deadline until April 29, 2020.⁵ On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days, thereby further extending the deadline for these results until June 18, 2020.⁶

Based on timely requests for withdrawal of administrative review, Commerce intends to partially rescind the administrative review of 14 entities.⁷ Therefore, concurrently with these preliminary results, we are rescinding the review with respect to these companies.

For a complete description of the events that followed the initiation of this review, see the Preliminary Decision Memorandum.⁸ A list of topics discussed in the Preliminary Decision Memorandum is included at the Appendix to this notice. The Preliminary 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>. In addition, a

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 27587 (June 13, 2019) (*Initiation Notice*).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 33739 (July 15, 2019) (*Corrected Initiation Notice*).

⁴ See *Corrected Initiation Notice*, 84 FR at 33753.

⁵ See Memorandum, “Certain Aluminum Foil from the People's Republic of China: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review; 08/14/2017–12/31/2018,” dated December 2, 2019.

⁶ See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID–19,” dated April 24, 2020.

⁷ See Shandong Yuanrui's Letter, “Withdrawal of Review Request and Withdrawal as Counsel in the Administrative Review of the Countervailing Duty Order on Aluminum Foil from the People's Republic of China (C–570–054),” dated June 24, 2019; Petitioner's Letter, “First Administrative Review of Countervailing Duty Order on Certain Aluminum Foil from the People's Republic of China—Petitioners' Withdrawal of Certain Requests for Administrative Reviews,” dated July 15, 2019; and Petitioner's Letter, “1st Administrative Review of the Countervailing Duty Order on Certain Aluminum Foil from the People's Republic of China—Petitioners' Partial Withdrawal of Review Requests,” dated September 11, 2019.

⁸ See Memorandum, “Decision Memorandum for the Preliminary Results of the Countervailing Duty Administrative Review of Certain Aluminum Foil from the People's Republic of China,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Order

The product covered by the *Order* is aluminum foil from China. For a complete description of the scope of the *Order*, see Appendix I.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we preliminarily determine that there is a subsidy, *i.e.*, a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.⁹ For a full description of the methodology underlying our conclusions, see the accompanying Preliminary Decision Memorandum.

Commerce notes that, in making these findings, it relied, in part, on facts available and, because it finds that the Government of China did not act to the best of its ability to respond to Commerce's requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available. For further information, see “Use of Facts Otherwise Available and Adverse Inferences” in the Preliminary Decision Memorandum.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party or parties that requested a review withdraw the request within 90 days of the publication date of the notice of initiation of the requested review. As noted above, all requests for administrative review were timely withdrawn for certain companies. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding this administrative review with respect to: Alcha International Holdings Limited; Baotou Alcha Aluminum Co., Ltd.; Granges Aluminum (Shanghai) Co., Ltd.; Guangxi Baise Xinghe Aluminum Industry Co., Ltd.; Huafoan Nikkei Aluminium Corporation; Jiangsu Alcha Aluminum Co., Ltd.; Jiangyin Dolphin

⁹ 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.

¹ See *Certain Aluminum Foil from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 83 FR 17360 (April 19, 2018) (*Order*).

Pack Ltd. Co.; Luoyang Longding Aluminium Industries Co., Ltd.; Shandong Yuanrui Metal Material Co., Ltd.; Suntown Technology Group Limited; Yantai Donghai Aluminum

Foil Co., Ltd.; Yantai Jintai International Trade Co., Ltd.; Yinbang Clad Material Co., Ltd.; and Zhejiang Zhongjin Aluminum Industry Co., Ltd.

Preliminary Results

Commerce preliminarily determines that, during the POR, the following estimated countervailable subsidy rates exist:

Company	Subsidy rate— 2017 (percent <i>ad valorem</i>)	Subsidy rate— 2018 (percent <i>ad valorem</i>)
Jiangsu Zhongji Lamination Materials Co., Ltd. ¹⁰	45.31	48.26
Xiamen Xiashun Aluminum Foil Co., Ltd.	17.04	19.87
Dingsheng Aluminum Industries (Hong Kong) Trading Co. Ltd. ¹¹ *	31.55	41.82
Hunan Suntown Marketing Limited *	31.55	41.82
Inner Mongolia Liansheng New Energy Material Joint-Stock Co., Ltd. *	31.55	41.82
Shanghai Shenyang Packaging Materials Co., Ltd. *	31.55	41.82
SNTD International Trade Limited *	31.55	41.82
Suzhou Manakin Aluminum Processing Technology Co., Ltd. ¹² *	31.55	41.82

¹⁰ As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Jiangsu Zhongji Lamination Materials Co., Ltd.: Jiangsu Zhongji Lamination Materials Co., (HK) Ltd. (Zhongji HK); Jiangsu Huafeng Aluminum Industry Co. Ltd. (Jiangsu Huafeng); Shantou Wanshun Material Stock Co., Ltd. (Shantou Wanshun); and Anhui Maximum Aluminum Industries Company Limited (Anhui Maximum). The subsidy rates apply to all cross-owned companies.

¹¹ We note that in the investigation, Commerce found the following companies to be cross-owned with Dingsheng Aluminum Industries (Hong Kong) Trading Co., Ltd.: Jiangsu Dingsheng New Materials Joint-Stock Co., Ltd.; Hangzhou Teemful Aluminum Co., Ltd.; Hangzhou Five Star Aluminum Co., Ltd.; Hangzhou DingCheng Aluminum Co., Ltd.; Luoyang Longding Aluminum Co., Ltd.; Hangzhou Dingsheng Industrial Group Co., Ltd.; Hangzhou Dingsheng Import & Export Co., Ltd.; and Walson (HK) Trading Co., Limited. The subsidy rates apply to all cross-owned companies.

An “*” denotes that the company listed in the table is a non-selected company under review.

¹² We note that in the investigation, Commerce found the following company to be cross-owned with Suzhou Manakin Aluminum Processing Technology Co., Ltd.: Manakin Industries, LLC. The subsidy rates apply to the cross-owned company.

Assessment Rates

Consistent with section 751(a)(2)(C) of the Act, upon issuance of the final results, Commerce shall determine, and Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review. We intend to issue instructions to CBP 15 days after publication of the final results of this review. Commerce intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Cash Deposit Rates

Pursuant to section 751(a)(1) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount indicated above with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit instructions, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

We will disclose to parties to this proceeding the calculations performed in reaching the preliminary results

within five days of the date of publication of these preliminary results.¹³ Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results and rebuttal comments (rebuttal briefs) within seven days after the time limit for filing case briefs.¹⁴ Pursuant to 19 CFR 351.309(d)(2), rebuttal briefs must be limited to issues raised in the case briefs. Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁵ Note that Commerce has modified certain of its requirements for serving documents containing business proprietary information, until July 17, 2020, unless extended.¹⁶

Interested parties who wish to request a hearing must do so within 30 days of publication of these preliminary results by submitting a written request to the Assistant Secretary for Enforcement and Compliance using Enforcement and Compliance's ACCESS system.¹⁷ Requests should contain the party's name, address, and telephone number,

the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce will inform parties of the scheduled date of the hearing.¹⁸ Issues addressed during the hearing will be limited to those raised in the briefs.¹⁹ Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Parties are reminded that all briefs and hearing requests must be filed electronically using ACCESS and received successfully in their entirety by 5 p.m. Eastern Time on the due date.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, Commerce intends to issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days after publication of these preliminary results.

Notification to Interested Parties

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213 and 351.221(b)(4).

¹³ See 19 CFR 224(b).

¹⁴ See 19 CFR 351.309(c)(1)(ii) and 351.309(d)(1).

¹⁵ See 19 CFR 351.309(c)(2) and 351.309(d)(2).

¹⁶ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 29615 (May 18, 2020).

¹⁷ See 19 CFR 351.310(c).

¹⁸ See 19 CFR 351.310.

¹⁹ See 19 CFR 351.310(c).

Dated: June 17, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Order

The merchandise covered by the *Order* is aluminum foil having a thickness of 0.2 mm or less, in reels exceeding 25 pounds, regardless of width. Aluminum foil is made from an aluminum alloy that contains more than 92 percent aluminum. Aluminum foil may be made to ASTM specification ASTM B479, but can also be made to other specifications. Regardless of specification, however, all aluminum foil meeting the scope description is included in the scope.

Excluded from the scope of this *Order* is aluminum foil that is backed with paper, paperboard, plastics, or similar backing materials on only one side of the aluminum foil, as well as etched capacitor foil and aluminum foil that is cut to shape.

Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above. The products covered by the *Order* are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7607.11.3000, 7607.11.6000, 7607.11.9030, 7607.11.9060, 7607.11.9090, and 7607.19.6000. Further, merchandise that falls within the scope of the *Order* may also be entered into the United States under HTSUS subheadings 7606.11.3060, 7606.11.6000, 7606.12.3045, 7606.12.3055, 7606.12.3090, 7606.12.6000, 7606.91.3090, 7606.91.6080, 7606.92.3090, and 7606.92.6080. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the *Order* is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Rescission of Administrative Review, in Part
- IV. Non-Selected Companies Under Review
- V. Scope of the Order
- VI. Diversification of China's Economy
- VII. Subsidies Valuation
- VIII. Interest Rates, Discount Rates, and Input, Land, and Electricity Benchmarks
- IX. Use of Facts Otherwise Available and Adverse Inferences
- X. Analysis of Programs
- XI. Disclosure and Public Comment
- XII. Recommendation

[FR Doc. 2020-13971 Filed 6-26-20; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XA251]

Pacific 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 Pacific Fishery Management Council (Pacific Council, Council) will hold an online meeting of its Scientific and Statistical Committee (SSC) Coastal Pelagic Species Subcommittee to review model specifications regarding the Pacific sardine rebuilding plan Rebuilder tool. This meeting is open to the public.

DATES: The online meeting will be held Wednesday, July 15, 2020 through Thursday, July 16, 2020. The meeting will run 8:30 a.m. to 1 p.m. Pacific Daylight Time each day, or until business for the day has been completed.

ADDRESSES: The meeting will be held as an online meeting. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see www.pcouncil.org). You may send an email to Mr. Kris Kleinschmidt (kris.kleinschmidt@noaa.gov) or contact him at (503) 820-2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

FOR FURTHER INFORMATION CONTACT:

Kerry Griffin, Pacific Council; telephone: (503) 820-2409.

SUPPLEMENTARY INFORMATION: The estimated biomass of Pacific sardine fell below the minimum stock size threshold of 50,000 metric tons, based on the 2019 stock assessment. The Council and NMFS are required to develop a rebuilding plan, which is scheduled for Council adoption at its September 2020 meeting. The primary purpose of the July 15-16 SSC Subcommittee meeting is to provide review and advice on developing proposed rebuilding alternatives relative to the Pacific sardine rebuilding plan. Specific objectives will include: (1) Establishing a stock-recruitment relationship and associated uncertainty, (2) establishing T_{min}, T_{max}, and B_{msy},

(3) setting other model parameters, (4) application of the rebuilder for the Council's rebuilding alternatives, and (5) reviewing model outputs for the development and analysis of alternatives. The meeting will also include discussion of 2021 stock assessments for coastal pelagic species. Other technical aspects of the sardine rebuilding plan may also be considered, as appropriate. Members of the Council's Coastal Pelagic Species Management Team are responsible for developing the sardine rebuilding plan and are expected to be active participants in the meeting.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document 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

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (kris.kleinschmidt@noaa.gov; (503) 820-2412) at least 10 days prior to the meeting date.

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

Dated: June 24, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020-13964 Filed 6-26-20; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XA244]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Renewal of U.S. Navy Target and Missile Launch Activities on San Nicolas Island

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

ACTION: Notice; issuance of renewal incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine

Mammal Protection Act (MMPA), as amended, notification is hereby given that NMFS has issued a Renewal incidental harassment authorization (IHA) to U.S. Navy (Navy) to incidentally harass marine mammals incidental to target and missile launch activities on San Nicolas Island (SNI).

DATES: This Renewal IHA is valid from June 19, 2020 through June 11, 2021.

FOR FURTHER INFORMATION CONTACT: Bonnie DeJoseph, Office of Protected Resources, NMFS, (301) 427-8401. Electronic copies of the original application, Renewal request, and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as “mitigation measures”). Monitoring and reporting of such takings are also required. The meaning of key terms such as “take,” “harassment,” and “negligible impact”

can be found in section 3 of the MMPA (16 U.S.C. 1362) and the agency’s regulations at 50 CFR 216.103.

NMFS’ regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed one year for each reauthorization. In the notice of proposed IHA for the initial authorization, NMFS described the circumstances under which we would consider issuing a Renewal for this activity, and requested public comment on a potential Renewal under those circumstances. Specifically, on a case-by-case basis, NMFS may issue a one-time one-year Renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical, or nearly identical, activities as described in the Description of the Specified Activities and Anticipated Impacts section of this notice is planned or (2) the activities as described in the Description of the Specified Activities and Anticipated Impacts section of this notice would not be completed by the time the IHA expires and a Renewal would allow for completion of the activities beyond that described in the Dates and Duration section of the initial notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed Renewal IHA effective date (recognizing that the Renewal IHA expiration date cannot extend beyond one year from expiration of the initial IHA).

- The request for renewal must include the following:

- (1) An explanation that the activities to be conducted under the requested Renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).

- (2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

Upon review of the request for Renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate,

and the findings in the initial IHA remain valid.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is provided to allow for any additional comments on the proposed Renewal. A description of the Renewal process may be found on our website at: www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals.

The NDAA (Pub. L. 108-136) removed the “small numbers” and “specified geographical region” limitations indicated above and amended the definition of “harassment” as it applies to a “military readiness activity.” The activity for which incidental take of marine mammals is being requested addressed here qualifies as a military readiness activity.

History of Request

On June 12, 2019, NMFS issued an IHA to the Navy to take marine mammals incidental to U.S. Navy Target and Missile Launch Activities on San Nicolas Island, California (84 FR 28462; June 19, 2019), effective from June 12, 2019 through June 11, 2020. On April 14, 2020, NMFS received an application for the Renewal of that initial IHA. As described in the application for Renewal IHA, the activities for which incidental take is requested are identical. As required, the applicant also provided a preliminary monitoring report (available at <https://www.fisheries.noaa.gov/action/incidental-take-authorization-us-navy-target-and-missile-launch-activities-san-nicolas-0>) which confirms that the applicant has implemented the required mitigation and monitoring, and which also shows that no impacts of a scale or nature not previously analyzed or authorized have occurred as a result of the activities conducted.

Description of the Specified Activities and Anticipated Impacts

The Navy will continue a target and missile launch program from two launch sites on SNI. Missiles vary from tactical and developmental weapons to target missiles used to test defensive strategies and other weapons systems. Some launch events involve a single missile, while others involve the launch of multiple missiles in quick succession. The Navy plans to conduct a maximum of 40 missile launch events from SNI, but the total may be less than 40 depending on operational requirements. No more than 25 launches have occurred in any single year since 2001 (Table 1).

TABLE 1—THE TOTAL NUMBER OF LAUNCHES THAT HAVE OCCURRED SINCE 2001 AT SNI

Time period	Number of launches
August 2001 to October 2005 ..	69
February 2006 to December 2009	11
January 2010 to December 2014	36
December 2015 to November 2018	30
June 2019 to March 2020	12

Launch timing will be determined by operational, meteorological, and logistical factors. Up to 10 of the 40 launches may occur at night; night launches are also dependent on operational requirements and will only be conducted when required by test objectives. These planned activities are identical to those in the Initial IHA and are described in detail in the Initial Proposed IHA (84 FR 18809; May 2, 2019).

Anticipated impacts, which would consist of Level B harassment of marine mammals, would also be identical to those analyzed and authorized in the Initial IHA (84 FR 28462; June 19, 2019). The Navy's request is for take of California sea lions (*Zalophus californianus*), harbor seals (*Phoca vitulina*), and northern elephant seals (*Mirounga angustirostris*) by Level B harassment only. All flights over SNI will be subsonic; therefore, there will be no sonic booms that could affect

pinnipeds hauled out at sites on SNI. Neither Navy nor NMFS expects serious injury or mortality to result from this activity.

Detailed Description of the Activity

A detailed description of the target and missile launch activities for which take is authorized here may be found in the notices of the Proposed and Final IHAs for the initial authorization. The location, timing, and nature of the activities, including the types of equipment planned for use, are identical to those described in the previous notices. This Renewal would be effective for a period of one year from the date of issuance.

Description of Marine Mammals

A description of the marine mammals in the area of the activities for which take is authorized here, including information on abundance, status, distribution, and hearing, may be found in the notices of the Proposed and Final IHAs for the initial authorization. NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that neither this nor any other new information affects which species or stocks have the potential to be affected or the pertinent information in the Description of the Marine Mammals in the Area of Specified Activities section contained in the supporting documents for the initial IHA.

Potential Effects on Marine Mammals and Their Habitat

A description of the potential effects of the specified activity on marine mammals and their habitat for the activities for the authorized take may be found in the Notices of the Proposed IHA for the initial authorization. NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that neither this nor any other new information affects our initial analysis of impacts on marine mammals and their habitat.

Estimated Take

A detailed description of the methods and inputs used to estimate take for the specified activity are found in the notices of the Proposed and Final IHAs for the initial authorization. Specifically, the source levels, days of operation, and marine mammal occurrence data applicable to this authorization remain unchanged from the previously issued IHA. Further, the 2019 monitoring data received from the Navy suggests that the actual number of marine mammals taken during the Navy launches remained well under the number authorized in the initial IHA and in this Renewal IHA. The stocks taken, methods of take, and types of take remain unchanged from the previously issued IHA, as do the number of takes, which are indicated below in Table 2.

TABLE 2—PROPOSED LEVEL B HARASSMENT TAKE FOR PINNIPEDS ON SNI

Species	Authorized Level B harassment	Percent of stock abundance taken by Level B harassment (assuming each instance is different individual)
California sea lion	11,000	257,606 (4.27 percent).
Harbor seal	480	30,968 (less than 2 percent).
Northern elephant seal	40	179,000 (less than 1 percent).

Description of Mitigation, Monitoring and Reporting Measures

The mitigation, monitoring, and reporting measures included as requirements in this authorization are identical to those included in the **Federal Register** notice announcing the issuance of the initial IHA, and the discussion of the least practicable adverse impact included in that document remains accurate. The following measures are authorized for this renewal:

Mitigation

Operation Restrictions

Personnel must not enter pinniped haulouts. Personnel may be adjacent to pinniped haulouts prior to and following a launch for monitoring purposes. All aircraft and helicopter flight paths must maintain a minimum distance of 305 meters (m) from recognized seal haulouts and rookeries, to the maximum extent practicable. Missiles must not cross over pinniped haulouts at elevations less than 305 m (1,000 feet (ft)).

If a species for which authorization has not been granted, or a species for

which authorization has been granted but the authorized takes are met, the Navy must consult with NMFS before the next launch event.

The Navy must review the launch procedure and monitoring methods, in cooperation with NMFS, if any incidents of injury or mortality of a pinniped are discovered during post-launch surveys, or if surveys indicate possible effects to the distribution, size, or productivity of the affected pinniped populations as a result of the specified activities. If necessary, appropriate changes must be made through modification to this Authorization prior

to conducting the next launch of the same vehicle.

Timing Restrictions

The Navy may not conduct more than 10 launch events at night. Launches must not occur during February through April, to the maximum extent practicable. Launches must be limited during January through February and June through July, to the maximum extent practicable.

Monitoring Measures

The Navy must obtain visual, video and audio, and acoustic data from up to three pinniped haulout monitoring sites during each launch event, to the maximum extent practicable. The holder of this IHA is required to abide by the following marine mammal and acoustic monitoring requirements:

Visual Monitoring

Marine mammal monitoring must be conducted by qualified, trained protected species observers. The following visual monitoring measures will be conducted during preparations for video and acoustic monitoring, as described in *Video and Audio Monitoring* section below: 1) Visual monitoring must be conducted before and after launches, including scanning the affected haulout beaches and counting the number and species of pinnipeds over a 15–30 minute period; 2) Prior to a launch event, Navy personnel must make observations of the monitored pinniped haulout and record the numbers and species of pinnipeds observed on field data sheets; and 3) After a launch event, Navy personnel must return to the monitored pinniped haulout and record the numbers and species of pinnipeds that remain on the haulout sites and any notable changes.

Video and Audio Monitoring

Before each launch, Navy personnel must set up or activate up to three video cameras (either high-definition video cameras, or Forward-Looking Infrared Radiometer (FLIR) thermal imaging cameras for night launch events) such that they overlook the monitoring sites. Each camera will be set to record a focal group of pinnipeds within the haulout for the maximum recording time permitted by the camera capacity. Video and audio monitoring must be conducted by recording continuously from a minimum of two hours before the event to approximately one hour after the event in order to:

Determine the composition of the focal subgroup of pinnipeds

(approximate numbers and sexes of each age class).

Describe the launch event, including documenting the occurrence of a launch event, the type of target/missile launched, the timing of the event, and duration of audibility.

Document movements of pinnipeds, including number and proportion moving, direction and distance moved, and pace of movement (slow or vigorous). In addition, the following variables concerning the circumstances of the observations must also be recorded from the videotape or from direct observations at the site:

1. Study location,
2. Local time,
3. Weather (including an estimate of wind strength and direction, and presence of precipitation), and
4. Tide state.

Identify and document any change in behavior or movements of pinnipeds that occurs at the time of the launch event.

Compare received levels of launch sound with pinniped responses, based on acoustic and behavioral data from up to three monitoring sites at different distances from the launch site and missile path during each launch; from the data accumulated across a series of launches, to attempt to establish the “dose-response” relationship for launch sounds under different launch conditions if possible.

Ascertain periods or launch conditions when pinnipeds are most and least responsive to launch activities. Lastly, document take by harassment: (1) Pinnipeds that are exposed to launch sounds strong enough to cause a temporary threshold shift (TTS); or (2) Pinnipeds that leave the haulout site, or exhibit prolonged movement (greater than 10 m) or prolonged behavioral changes (such as pups separated from mothers) relative to their behavior immediately prior to the launch.

Acoustic Monitoring

The Navy must use up to four autonomous audio recorders to make acoustical measurements. During each launch, these must be located as close as practicable to pinniped haulout monitoring sites and near the launch pad itself. The monitored pinniped haulout sites must typically include one site as close as possible to the missile's planned flight path and one or two locations farther from the flight path within the area of potential impact with pinnipeds present. Autonomous Terrestrial Acoustic Recorders must be deployed at the recording locations on the launch day well before the launch time, and must be retrieved later the

same day. Acoustic measurements must be collected and reported consistent with section 13.2 of the Navy's application.

Reporting

A draft report on all monitoring conducted under the IHA must be submitted within 90 calendar days of the completion of marine mammal and acoustic monitoring or 60 days prior to the issuance of any subsequent IHA or incidental take regulations for this project, whichever comes first. A final report must be prepared and submitted within 30 days following resolution of comments on the draft report from NMFS. This report must contain the informational elements described in Section 5 of the Authorization.

Reporting Injured or Dead Marine Mammals

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as serious injury, or mortality, the Navy must immediately cease the specified activities and report the incident to the NMFS Office of Protected Resources (301–427–8401) and the West Coast Stranding Coordinator (562–980–3230). The report must include the following information:

1. Time and date of the incident;
2. Description of the incident;
3. Environmental conditions (*e.g.*, wind speed and direction, cloud cover, and visibility);
4. Description of all marine mammal observations and active sound source use in the 24 hours preceding the incident;
5. Species identification or description of the animal(s) involved;
6. Fate of the animal(s); and
7. Photographs or video footage of the animal(s).

Activities must not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with the Navy to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The Navy may not resume their activities until notified by NMFS.

In the event the Navy discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.*, in less than a moderate state of decomposition), the Navy must immediately report the incident to the Office of Protected Resources, NMFS, and the West Coast Region Stranding Coordinator, NMFS. The report must

include the same information identified in 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with the Navy to determine whether additional mitigation measures or modifications to the activities are appropriate.

In the event that the Navy discovers an injured or dead large whale or other cetaceans, and the lead observer determines that the injury or death is not associated with or related to the specified activities (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the Navy must report the incident to the Office of Protected Resources, NMFS, and the West Coast Region Stranding Coordinator, NMFS, within 24 hours of the discovery.

This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

Public Comments

A notice of NMFS' proposal to issue a Renewal IHA to the Navy was published in the **Federal Register** on June 1, 2020 (85 FR 33124). That notice either described, or referenced descriptions of, the Navy's activity, the marine mammal species that may be affected by the activity, the anticipated effects on marine mammals and their habitat, proposed amount and manner of take, and proposed mitigation, monitoring and reporting measures. NMFS received a comment letter from one entity, the Marine Mammal Commission (Commission). The comments and our responses are summarized below.

Comment 1: The Commission recommended that NMFS refrain from issuing the Navy's authorization renewal until after the public comment period closes on 16 June 2020 and all comments received are fully considered.

Response: NMFS concurs and will not issue until the public comment period closes and all comments are considered fully.

Comment 2: the Commission again recommends that NMFS refrain from issuing renewals for any authorization and instead use its abbreviated **Federal Register** notice process, which is similarly expeditious and fulfills NMFS's intent to maximize efficiencies. The Commission has further recommended that, if NMFS continues to propose to issue renewals, that it (1)

stipulate that a renewal is a one-time opportunity (a) in all **Federal Register** notices requesting comments on the possibility of a renewal, (b) on its web page detailing the renewal process, and (c) in all draft and final authorizations that include a term and condition for a renewal and, (2) if NMFS declines to adopt this recommendation, explain fully its rationale for not doing so.

Response: While NMFS has consistently expressed the intent to implement Renewals as one-time opportunities, as the Commission noted, NMFS recently concurred with the Commission's recommendation to more explicitly describe this intent in all **Federal Register** notices and IHAs, and the website. However, NMFS does not agree with the Commission's recommendation to refrain from issuing Renewals and, therefore, does not adopt the Commission's recommendation. NMFS has addressed the Commission's concerns in multiple FR notices (e.g., 84 FR 52464, October 2, 2019), but has also committed to provide a detailed explanation of its decision within 120 days, as required by section 202(d) of the MMPA.

Comment 3: The Commission recommends that NMFS review applications and **Federal Register** notices more thoroughly prior to submitting them to the **Federal Register** for public comment.

Response: Renewal language was erroneously included in the draft IHA and NMFS appreciates the Commission's comment noting it. NMFS will continue to review **Federal Register** notices as thoroughly as possible given available resources and required timelines.

Comment 4: The Commission recommends that NMFS review their comments on the initial IHA.

Response: NMFS reviewed the Commission's comments on the initial IHA and the responses published in the **Federal Register** notice announcing the issuance of the final initial 2019 IHA (84 FR 28462; June 19, 2019) remain valid.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216-6A, NMFS must review our proposed action (*i.e.*, the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHA with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216-6A, which do

not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the Renewal IHA qualifies to be categorically excluded from further NEPA review.

Determinations

The action of this Renewal IHA, target and missile launch activities, will be identical to the activities analyzed in the Initial IHA. Based on the analysis detailed in the notice of the Initial IHA authorization of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS found that the total marine mammal take from the activity will have a negligible impact on all affected marine mammal species or stocks.

NMFS has concluded that there is no new information suggesting that our analysis or findings should change from those reached for the initial IHA. Based on the information and analysis contained here and in the referenced documents, NMFS has determined the following: (1) The required mitigation measures will affect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the Navy's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action, and; (4) appropriate monitoring and reporting requirements are included.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Renewal

NMFS has issued a Renewal IHA to the Navy for the take of marine mammals incidental to conducting target and missile launch activities on SNI, California from June 19, 2020 through June 11, 2021.

Dated: June 23, 2020.

Donna S. Wieting,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 2020-13860 Filed 6-26-20; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE**National Technical Information Service**

**Agency Information Collection
Activities; Submission to the Office of
Management and Budget (OMB) for
Review and Approval; Extension of
Currently Approved Information
Collection; Comment Request; Limited
Access Death Master File Systems
Safeguards Attestation Forms**

AGENCY: National Technical Information Service, Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before August 28, 2020.

ADDRESSES: Interested persons are invited to submit written comments by mail to Daniel Ramsey, Supervisory Program Manager, Office of Program Management, National Technical Information Service, Department of Commerce or by email to dramsey@ntis.gov or PRAComments@doc.gov. Please reference OMB Control Number 0692-0016 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Daniel Ramsey, Supervisory Program Manager,

Office of Program Management, National Technical Information Service, Department of Commerce, 5301 Shawnee Road, Alexandria, VA 22312, email: dramsey@ntis.gov or telephone: 703-605-6703.

SUPPLEMENTARY INFORMATION:**I. Abstract**

Title of Information Collection:

- (A) "Limited Access Death Master File (LADMF) Accredited Conformity Assessment Body Systems Safeguards Attestation Form" (ACAB Systems Safeguards Attestation Form)
- (B) "Limited Access Death Master File (LADMF) State or Local Government Auditor General (AG) or Inspector General (IG) Systems Safeguards Attestation Form" (AG or IG Systems Safeguards Attestation Form)

This notice informs the public that the National Technical Information Service (NTIS) is requesting approval for extension of the above information collection for use in connection with the final rule for the "Certification Program for Access to the Death Master File." The final rule was promulgated under Section 203 of the Bipartisan Budget Act of 2013, Public Law 113-67 (Act) and published on June 1, 2016 (81 FR 34882). The rule became effective on November 28, 2016 (15 CFR part 1110). No changes are being proposed to the currently approved information collection.

The Act prohibits the Secretary of Commerce (Secretary) from disclosing DMF information during the three-year period following an individual's death (Limited Access DMF), unless the person requesting the information has been certified to access the Limited Access DMF pursuant to certain criteria in a program that the Secretary establishes. The Secretary delegated the authority to carry out Section 203 to the Director of NTIS.

To accommodate the requirements of the final rule, NTIS is using both the ACAB Systems Safeguards Attestation Form and the AG or IG Systems Safeguards Attestation Form.

The ACAB Systems Safeguards Attestation Form requires an "Accredited Conformity Assessment Body" (ACAB), as defined in the final rule, to attest that a Person seeking certification or a Certified Person seeking renewal of certification has information security systems, facilities and procedures in place to protect the security of the Limited Access DMF, as required under Section 1110.102(a)(2) of the final rule. The ACAB Systems

Safeguards Attestation Form collects information based on an assessment by the ACAB conducted within three years prior to the date of the Person or Certified Person's submission of a completed certification statement under Section 1110.101(a) of the final rule. This collection includes specific requirements of the final rule, which the ACAB must certify are satisfied, and the provision of specific information by the ACAB, such as the date of the assessment and the auditing standard(s) used for the assessment.

Section 1110.501(a)(2) of the final rule provides that a state or local government office of AG or IG and a Person or Certified Person that is a department or agency of the same state or local government, respectively, are not considered to be owned by a common "parent" entity under Section 1110.501(a)(1)(ii) for the purpose of determining independence, and attestation by the AG or IG is possible. The AG or IG Systems Safeguards Attestation Form is for the use of a state or local government AG or IG to attest on behalf of a state or local government department or agency Person or Certified Person. The AG or IG Systems Safeguards Attestation Form requires the state or local government AG or IG to attest that a Person seeking certification or a Certified Person seeking renewal of certification has information security systems, facilities and procedures in place to protect the security of the Limited Access DMF, as required under Section 1110.102(a)(2) of the final rule. The AG or IG Systems Safeguards Attestation Form collects information based on an assessment by the state or local government AG or IG conducted within three years prior to the date of the Person or Certified Person's submission of a completed certification statement under Section 1110.101(a) of the final rule. This collection includes specific requirements of the final rule, which the state or local government AG or IG must certify are satisfied, and the provision of specific information by the state or local government AG or IG, such as the date of the assessment.

II. Method of Collection

The information will be collected by paper format, email, mail, and fax.

III. Data

OMB Control Number: 0692-0016.

Form Number(s): NTIS FM100A and NTIS FM100B.

Type of Review: Regular submission: extension of a current information collection.

Affected Public: Accredited Conformity Assessment Bodies and state or local government Auditors General or Inspectors General attesting that a Person seeking certification or a Certified Person seeking renewal of certification under the final rule for the "Certification Program for Access to the Death Master File" has information security systems, facilities and procedures in place to protect the security of the Limited Access DMF, as required by the final rule.

Estimated Number of Respondents: ACAB Systems Safeguards Attestation Form: NTIS expects to receive approximately 250 ACAB Systems Safeguards Attestation Forms from Persons and Certified Persons annually. *AG or IG Systems Safeguards Attestation Form:* NTIS expects to receive approximately 30 AG or IG Systems Safeguards Attestation Forms from Persons and Certified Persons annually.

Estimated Time Per Response: ACAB Systems Safeguards Attestation Form: 3 hours. AG or IG Systems Safeguards Attestation Form: 3 hours.

Estimated Total Annual Burden Hours: ACAB Systems Safeguards Attestation Form: 750 (250 × 3 hours = 750 hours). AG or IG Systems Safeguards Attestation Form: 90 (30 × 3 hours = 90 hours).

Estimated Total Annual Cost to Public: ACAB Systems Safeguards Attestation Form: NTIS expects to receive approximately 250 ACAB Systems Safeguards Attestation Forms annually at a fee of \$525 per form, for a total cost of \$131,250. This total annual cost reflects the cost to the Federal Government for the ACAB Systems Safeguards Attestation Forms, which consists of the expenses associated with NTIS personnel reviewing and processing these forms. NTIS estimates that it will take an ACAB's senior auditor three hours to complete the form at a rate of approximately \$135 per hour, for a total additional cost to the public of \$101,250 (750 burden hours × \$135/hour = \$101,250). NTIS estimates the total annual cost to the public for the ACAB Systems Safeguards forms to be \$232,500 (\$131,250 in fees + \$101,250 in staff time = \$232,500).

AG or IG Systems Safeguards Attestation Form: NTIS expects to receive approximately 30 AG or IG Systems Safeguards Attestation Forms annually at a fee of \$525 per form, for a total cost of \$15,750. This total annual cost reflects the cost to the Federal Government for the AG or IG Systems Safeguards Attestation Forms, which consists of the expenses associated with

NTIS personnel reviewing and processing these forms. NTIS estimates that it will take an AG or IG senior auditor three hours to complete the form at a rate of approximately \$100 per hour, for a total additional cost to the public of \$9,000 (90 burden hours × \$100/hour = \$9,000). NTIS estimates the total annual cost to the public for AG or IG Systems Safeguards Attestation Forms to be \$24,750 (\$15,750 in fees + \$9,000 in staff time = \$24,750).

NTIS estimates the total annual cost to the public for both the ACAB Systems Safeguards Attestation Forms and the AG or IG Systems Safeguards Attestation Forms to be \$257,250 (\$232,500 for ACAB Systems Safeguards Attestation Forms + \$24,750 for AG or IG Systems Safeguards Attestation Forms).

Respondent's Obligation: Voluntary.

Legal Authority: Section 203 of the Bipartisan Budget Act of 2013, Public Law 113–67; 15 CFR part 1110.

IV. Request for Comments

We are soliciting public comments to permit the Department to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms 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 Information Collection Review (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 may 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.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2020–13897 Filed 6–26–20; 8:45 am]

BILLING CODE 3510–13–P

COMMODITY FUTURES TRADING COMMISSION

Technology Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of meeting.

SUMMARY: The Commodity Futures Trading Commission (CFTC) announces that on July 16, 2020, from 10:00 a.m. to 2:00 p.m., the Technology Advisory Committee (TAC) will hold a public meeting via teleconference. At this meeting, the TAC will hear presentations from the TAC subcommittees on Automated and Modern Trading Markets, Distributed Ledger Technology and Market Infrastructure, Virtual Currencies, and Cyber Security.

DATES: The meeting will be held on July 16, 2020, from 10:00 a.m. to 2:00 p.m. Members of the public who wish to submit written statements in connection with the meeting should submit them by July 23, 2020.

ADDRESSES: The meeting will take place via teleconference. You may submit public comments, identified by "Technology Advisory Committee," by any of the following methods:

- **CFTC Website:** <http://comments.cftc.gov>. Follow the instructions for submitting comments through the Comments Online process on the website.

- **Mail:** Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street NW, Washington, DC 20581.

- **Hand Delivery/Courier:** Same as Mail, above.

Any statements submitted in connection with the committee meeting will be made available to the public, including publication on the CFTC website, <http://www.cftc.gov>.

FOR FURTHER INFORMATION CONTACT: Meghan Tente, TAC Designated Federal Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; (202) 418–5785.

SUPPLEMENTARY INFORMATION: Members of the public may listen to the meeting by telephone by calling a domestic toll-free telephone or international toll or toll-free number to connect to a live, listen-only audio feed. Call-in participants should be prepared to provide their first name, last name, and affiliation.

- *Domestic Toll Free:* 877-951-7311.

- *International Toll and Toll Free:*

Will be posted on the CFTC's website, <http://www.cftc.gov>, on the page for the meeting, under Related Links.

- *Pass Code/Pin Code:* 6735978.

The meeting agenda may change to accommodate other TAC priorities. For agenda updates, please visit the TAC committee website at: https://www.cftc.gov/About/CFTCCcommittees/TechnologyAdvisory/tac_meetings.html.

After the meeting, a transcript of the meeting will be published through a link on the CFTC's website at: <http://www.cftc.gov>. All written submissions provided to the CFTC in any form will also be published on the CFTC's website. Persons requiring special accommodations to attend the meeting because of a disability should notify the contact person above.

Authority: 5 U.S.C. app. 2 section 10(a)(2).

Dated: June 24, 2020.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2020-13905 Filed 6-26-20; 8:45 am]

BILLING CODE 6351-01-P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB-2020-0024]

Agency Information Collection Activities: Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Consumer Financial Protection (Bureau) is publishing this notice seeking comment on a generic Information Collection titled, "Debt Collection Validation Notice Qualitative Testing" under the Generic Information Collection Plan entitled, "Generic Information Collection Plan for the Development and Testing of Disclosures and Related Materials" prior to requesting Office of Management and Budget's (OMB's) approval of this collection.

DATES: Written comments are encouraged and must be received on or

before July 29, 2020 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Electronic:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

• *Email:* PRA_Comments@cfpb.gov. Include Docket No. CFPB-2020-0024 in the subject line of the message.

• *Mail/Hand Delivery/Courier:* Comment intake, Bureau of Consumer Financial Protection (Attention: PRA Office), 1700 G Street NW, Washington, DC 20552. Please note that due to circumstances associated with the COVID-19 pandemic, the Bureau discourages the submission of comments by mail, hand delivery, or courier. Please note that comments submitted after the comment period will not be accepted. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT:

Documentation prepared in support of this information collection request is available at www.regulations.gov.

Requests for additional information should be directed to Darrin King, PRA Officer, at (202) 435-9575, or email: CFPB_PRA@cfpb.gov. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov. Please do not submit comments to these email boxes.

SUPPLEMENTARY INFORMATION:

Title of Collection: Debt Collection Validation Notice Qualitative Testing.

OMB Control Number: 3170-0022.

Type of Review: Request for approval of a generic information collection under an existing Generic Information Collection Plan.

Affected Public: Individuals and Households.

Estimated Number of Respondents: 400.

Estimated Total Annual Burden Hours: 78.

Abstract: The Bureau plans to conduct cognitive interviews to assess the effectiveness and validate the performance of the Bureau's model debt collection validation notices. The Bureau will collect information on how consumers locate and use information in the model notice, including:

(1) Whether the consumer can locate and use important information effectively, such as information about

the debt, information about the consumer's rights, and information about how the consumer may respond if they so choose; and

(2) How consumers view and respond to paper and electronic versions of the model validation notice.

Request for Comments: The Bureau is publishing this notice and soliciting comments on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the 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, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be submitted to OMB as part of its review of this request. All comments will become a matter of public record.

Dated: June 24, 2020.

Darrin King,

Paperwork Reduction Act Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2020-13948 Filed 6-26-20; 8:45 am]

BILLING CODE 4810-AM-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket DARS-2019-0063; OMB Control Number 0750-0002]

Information Collection; Covered Defense Telecommunications Equipment or Services; Submission for OMB Review; Comment Request

AGENCY: Defense Acquisition Regulations System, Department of Defense (DOD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for extension of a collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by July 29, 2020.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS); DFARS Part 204, Covered Defense

Telecommunications Equipment or Services; OMB Control Number 0750–0002.

Affected Public: Businesses and other for-profit entities.

Respondent's Obligation: Required to obtain or retain benefits.

Type of Request: Extension of a currently approved collection.

Reporting Frequency: At least annually.

Number of Respondents: 216,843.

Responses per Respondent: 2.

Annual Responses: 432,939.

Preparation Hours per Response (weighted average of the estimated hours to complete the representations, the disclosure, and the report): 4.45 hours

Annual Response Burden Hours: 97,359.

A notice requesting that OMB provide emergency clearance of collections of information was published in the **Federal Register** at 84 FR 69362, on December 18, 2019. OMB authorized emergency processing of an information collection involved in this rule under OMB Control Number 0750–0002. This notice was published in conjunction with publication of an interim rule under DFARS Case 2018–D022, Covered Defense Telecommunications Equipment or Services, published on December 31, 2019, at 84 FR 72231.

Needs and Uses: The collection of information is necessary to protect against foreign interference with DoD telecommunications, which could jeopardize our military communications, the lives of our warfighters, and our national security. The collection of information is essential to the mission of the agencies to ensure DoD does not purchase prohibited equipment, systems, and services, and can respond appropriately if any such purchases are not identified until after delivery or use.

This requirement supports implementation of section 1656(b) of the National Defense Authorization Act for Fiscal Year 2018. Section 1656 prohibits DoD from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service to carry out the nuclear deterrence mission and homeland defense mission that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as a part of any system.

This requirement is implemented in the Defense Federal Acquisition Regulation Supplement (DFARS) through the provision at 252.204–7016, Covered Defense Telecommunications Equipment or Services—Representation,

the provision at 252.204–7017, Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services—Representation, and the clause at 252.204–2018, Prohibition on Acquisition of Covered Defense Telecommunications Equipment or Services.

This clearance covers the following requirements:

- DFARS 252.204–7016 requires the offeror to represent whether it does or does not provide covered defense telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument.

- DFARS 252.204–7017 requires that if an offeror provides an affirmative representation under the provision at 252.204–7016, Covered Defense Telecommunications Equipment or Services—Representation, that offeror is required to represent whether it will or will not provide under the contract, covered defense telecommunications equipment or services.

- DFARS 252.204–7018 requires contractors to report covered telecommunications equipment, systems and services identified during performance of a contract.

OMB Desk Officer: Comments and recommendations on the proposed information collection should be sent to Ms. Susan Minson, DoD Desk Officer, at Oira_submission@omb.eop.gov. Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments, identified by docket number and title, by the following method:

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

DoD Clearance Officer: Requests for copies of the information collection proposal should be sent to Ms. Angela James at whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

Jennifer Lee Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

[FR Doc. 2020–13977 Filed 6–26–20; 8:45 am]

BILLING CODE 5001–06–P

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The DoD is publishing this notice to announce that it is renewing the charter for the Defense Business Board (“the Board”).

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: The Board’s charter is being renewed in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C., Appendix) and 41 CFR 102–3.50(d). The charter and contact information for the Board’s Designated Federal Officer (DFO) are found at <https://www.facadatabase.gov/FACA/apex/FACAPublicAgencyNavigation>.

The Board shall examine and advise on DoD management, business processes, and governance from a private and academic sectors perspective. The Board shall be composed of no more than 25 members who possess one or more of the following: (a) A proven track record of sound judgment and business acumen in leading or governing large, complex public sector or private sector corporations or organizations or (b) a wealth of top-level, global business or academic experience in the areas of executive management, corporate governance, audit and finance, human resources, economics, technology, or healthcare.

Board members who are not full-time or permanent part-time Federal civilian officers, employees, or active duty members of the Armed Forces will be appointed as experts or consultants, pursuant to 5 U.S.C. 3109, to serve as special government employee members. Board members who are full-time or permanent part-time Federal civilian officers, employees, or active duty members of the Armed Forces will be appointed pursuant to 41 CFR 102–3.130(a), to serve as regular government employee members.

All members of the Board are appointed to provide advice on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. Except for reimbursement of official Board-related travel and per diem, members serve without compensation.

The public or interested organizations may submit written statements to the Board membership about the Board’s mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Board. All

DEPARTMENT OF DEFENSE

Office of the Secretary

Charter Renewal of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense (DoD).

written statements shall be submitted to the DFO for the Board, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: June 23, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–13881 Filed 6–26–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities and Demonstration and Training Programs—National Technical Assistance Center on Transition for Students and Youth with Disabilities

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

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for new awards for fiscal year (FY) 2020 for the National Technical Assistance Center on Transition for Students with Disabilities (Center), Catalog of Federal Domestic Assistance (CFDA) number 84.326E, to assist States in their work to improve outcomes for students and youth with disabilities based on their particular needs. To achieve this purpose, the Center will engage in partnerships with parents, families, and diverse stakeholders and empower States to pursue innovation. Further, the Center will be required to customize its technical assistance (TA) to meet each State's specific, identified needs. This notice relates to the approved information collection under OMB control number 1820–0028.

DATES:

Applications Available: June 29, 2020.

Deadline for Transmittal of

Applications: August 28, 2020.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.

FOR FURTHER INFORMATION CONTACT:

Selete Avoke, U.S. Department of Education, 400 Maryland Avenue SW,

Room 5002, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–7260. Email: Selete.Avoke@ed.gov. Or Kristen Rhinehart-Fernandez, U.S. Department of Education, 400 Maryland Avenue SW, Room 5094, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–6103. Email: Kristen.Rhinehart@ed.gov.

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

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description
Purpose of Programs: The purpose of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program is to promote academic achievement and to improve results for children with disabilities by providing TA, supporting model demonstration projects, disseminating useful information, and implementing activities that are supported by scientifically based research.

The purpose of the Demonstration and Training program is to provide competitive grants, including cooperative agreements, to, or enter into contracts with, eligible entities to expand and improve the provision of vocational rehabilitation (VR) and other services authorized under the Rehabilitation Act of 1973, as amended by title IV of the Workforce Innovation and Opportunity Act (WIOA) (Rehabilitation Act), or to further the purposes and policies in sections 2(b) and (c) of the Rehabilitation Act by supporting activities that increase the provision, extent, availability, scope, and quality of rehabilitation services under the Rehabilitation Act, including related research and evaluation activities.

Priority: This notice includes one absolute priority. For the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program, in accordance with 34 CFR 75.105(b)(2)(v), the absolute priority is from allowable activities specified in sections 663 and 681(d) of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1463 and 1481(d)). For the Demonstration and Training program, we are also establishing this priority for the FY 2020 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in

accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1).

Absolute Priority: For FY 2020 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

National Technical Assistance Center on Transition for Students and Youth with Disabilities (Center).

Background:

Students and youth with disabilities must be held to high expectations and have the resources and supports needed to expand their learning opportunities and prepare them for success in postsecondary education or careers. This priority is aligned with the Secretary's Final Supplemental Priorities and Definitions for Discretionary Grant Programs (Supplemental Priorities) published in the **Federal Register** on March 2, 2018 (83 FR 9096) and is designed to foster flexible and affordable paths to obtaining knowledge and skills; foster knowledge and promote the development of skills that prepare students to be informed, thoughtful, and productive individuals and citizens; and meet the unique needs of students and children with disabilities and those with unique gifts and talents. This priority also is designed to prepare students for successful transitions to college and careers by improving access to career, technical, and adult education (CTE) and exploring options, such as dual enrollment, that facilitate transition from secondary school to postsecondary education and workforce job skills development; to prepare students for high-quality science, technology, engineering, and mathematics (STEM) education with a particular focus on computer science;¹ and provide students with equal access to high-quality educational opportunities.

The IDEA and the Elementary and Secondary Education Act of 1965, as amended (ESEA), provide States flexibility with the design of their educational systems and other provisions to support and promote college and career readiness for students, including those with disabilities (English et al., 2016). Under ESEA, States need to ensure students

¹ STEM is also a national priority. For more details, see “Charting A Course For Success: America's Strategy For STEM Education,” www.whitehouse.gov/wp-content/uploads/2018/12/STEM-Education-Strategic-Plan-2018.pdf (December 2018).

with disabilities, especially those with significant disabilities, are not prevented from working toward a regular high school diploma that allows them to pursue college and career opportunities (Thurlow et al., 2016).

Similarly, the Rehabilitation Act emphasizes career readiness and high-quality outcomes for students and youth with disabilities. With the passage of WIOA, the differences in how education agencies and VR agencies define and provide transition and pre-employment transition services became more evident. For example, transition services are available to eligible students and youth with disabilities under an approved individualized plan for employment. Pre-employment transition services are available to all students with disabilities who are potentially eligible and eligible for VR services. As a result, State educational agencies (SEAs), local educational agencies (LEAs), and State VR agencies and their partners continue to examine their roles and responsibilities and identify ways to ensure that transition services and pre-employment transition services are coordinated in an efficient and effective manner. Notwithstanding these requirements, States need assistance in implementing these transition services.

The IDEA requires States to report data through their IDEA Part B State Performance Plan/Annual Performance Report (SPP/APR) on Indicator 13,² which is the percentage of youth ages 16 and above with individualized education programs (IEPs) that include appropriate measurable postsecondary goals. The postsecondary goals are updated annually and are based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills. The IEP must also include transition services (including courses of study) needed to assist the student in reaching those postsecondary goals. States also must provide evidence that each student was invited to the IEP Team meeting where transition services were to be discussed and evidence that, if appropriate, a representative of any participating agency was invited to the IEP Team meeting with the prior consent of the parent or student who has reached the age of majority. For Federal fiscal year (FFY) 2017–2018, only 11 out of the 50 States, the District of Columbia, and the

9 entities (the freely associated States, the outlying areas, Puerto Rico, and the Bureau of Indian Education) (18 percent) reported 100 percent compliance with Indicator 13 requirements.³ As an IDEA requirement, all States are expected to report 100 percent compliance.

Similarly, State VR agencies and their partners must meet requirements established in the Rehabilitation Act for the provision of services to students and youth with disabilities to ensure they have opportunities to receive training and other services necessary to achieve competitive integrated employment. More specifically, the Rehabilitation Act, as amended by WIOA, expands both the population of students with disabilities who may receive services and the kinds of services that the VR agencies may provide to students and youth with disabilities who are transitioning from school to postsecondary education and employment. The Rehabilitation Act also increases opportunities for students and youth with disabilities to practice and improve workplace skills, such as through internships and other work-based learning opportunities.

Under the Rehabilitation Act, State VR agencies are required to reserve and expend not less than 15 percent of the Federal VR grant award to provide, or arrange for the provision of, (a) pre-employment transition services for students with disabilities transitioning from school to postsecondary education programs and employment, and (b) coordinate the provision of pre-employment transition services with LEAs. These requirements have fostered significant increases in communication and collaboration between State VR agencies and LEAs, particularly regarding the provision of pre-employment transition services for students with disabilities. However, even in States that have a history of collaboration among SEAs, LEAs, and VR agencies, the depth of collaboration required to define responsibilities and align service implementation is a continuing challenge.

LEAs and schools, including charter schools, continue to need TA to coordinate, implement, and provide pre-employment transition services and IDEA transition services. According to the Case Service Report (RSA–911),⁴

173,709 students and youth with disabilities were referred for VR services in program year (PY) 2018 (July 1, 2018–June 30, 2019). During this period, 61 percent were referred by educational institutions, while 39 percent were referred by other referral sources (e.g., self-referrals, family/friends, employers). As there were 413,353 students ages 14 to 21 who received services under IDEA in school year 2016–17, the percentage of referrals from educational institutions represents only a small fraction of those students with disabilities who were potentially eligible or eligible for VR services.

As demonstrated by the data described above, there continues to be a need for increased support to VR agencies and LEAs both in identifying potentially eligible and eligible students for VR services and providing those services. During PY 2018 alone,⁵ VR agencies reported that 248,676 students with disabilities received pre-employment transition services arranged for or provided by the VR program. Of this number, 138,120 were students with disabilities potentially eligible for VR services, and 110,556 were students with disabilities who applied for VR services, were determined eligible, and received pre-employment transition services. This data represents a small fraction of the total number of potentially eligible students who could benefit from pre-employment transition services. Not only could more students with disabilities receiving special education services be potentially eligible for pre-employment transition services, but also an additional number of students who have disabilities as described in Section 504 of the Rehabilitation Act of 1973, as amended, could be potentially eligible.

Department funds must be awarded and projects must be operated in a manner consistent with nondiscrimination requirements contained in the U.S. Constitution and Federal civil rights laws.

Priority

The purpose of this priority is to fund a cooperative agreement to establish and operate a National Technical Assistance Center on Transition for Students and Youth with Disabilities (Center). The Center will assist SEAs, LEAs, State VR agencies, and other VR and special education and related service providers to implement effective practices and strategies that ensure that students and youth with disabilities, including those

² The IDEA Part B SPP/APR Indicator 13 is based on the monitoring priority in 20 U.S.C. 1416(a)(3)(B). More information on the indicator and other SPP/APR indicators can be found in the IDEA Part B SPP/APR Indicator Measurement Table, at <https://osep.grads360.org/#communities/pdc/documents/18303>.

³ See <https://osep.grads360.org/#program/spp-apr-resources>.

⁴ RSA uses data collected through the Case Service Report (RSA–911)(OMB control number 1820–0508) for the State VR Services Program and the State Supported Employment (SE) Services Program to describe the performance of the VR and SE programs in the Annual Report to the Congress

and the President as required by sections 13 and 101(a)(10) of the Rehabilitation Act.

⁵ RSA–911.

with significant disabilities, graduate from high school with the knowledge, skills, and supports needed for postsecondary education, training, and employment. In addition to in-person services, the Center must offer appropriate remote environment methodologies for these services in light of the COVID-19 pandemic. The Center must achieve, at a minimum, the following expected outcomes:

(a) Improved development and implementation of, and compliance with, interagency agreements between SEAs, LEAs, and State VR agencies. These interagency agreements address data sharing, fiscal and programmatic roles and responsibilities related to the provision of pre-employment transition services, and transition services and other VR services;

(b) Increased SEA and State VR agency capacity to provide TA and professional development to LEAs and VR service providers to implement pre-employment transition services that lead to post-secondary education, training, and employment;

(c) Improved SEA, LEA, and State VR agency capacity to implement with fidelity evidence-based transition services;

(d) Improved SEA, LEA, and State VR agency capacity to implement career pathways including work-based learning experiences, internships, and pre-apprenticeship and apprenticeship activities for students and youth with disabilities, including those with the most significant disabilities and those living in rural areas;

(e) Increased SEA, LEA, and State VR agency capacity and collaboration to improve students with disabilities' access to, and participation in, CTE that leads to occupations that require licenses or certification;

(f) Increased use of data sharing agreements⁶ among SEAs, LEAs, State

VR agencies, and other VR service providers to inform and improve the provision of services for students with disabilities;

(g) Increased capacity of SEAs, LEAs, and State VR agencies to collect and evaluate data on the effectiveness of services for students and youth with disabilities;

(h) Increased capacity of States to design and implement a State-designed alternative diploma where appropriate;

(i) Increased implementation of effective dropout prevention models and practices to increase school completion and graduation;

(j) Increased implementation of transition services and pre-employment transition services within a multi-tiered systems of support (MTSS) framework (*i.e.*, how schools can implement the predictors and practices for post-school outcomes in an MTSS framework);

(k) Increased implementation of transition services and pre-employment transition services for high-risk students with disabilities (*e.g.*, students with the most significant disabilities, students in foster care, military-connected students and youth, youth involved with the juvenile justice system, and youth who are homeless or using or abusing controlled substances); and

(l) Improved referral and application processes that facilitate parental involvement and consent for the provision of services.

In addition to applicants achieving the expected outcomes described above, to be considered for funding under the absolute priority, applicants must also meet the following application and administrative requirements, which are:

(a) Demonstrate, in the narrative section of the application under "Significance of the project," how the proposed project will—

(1) Address training and information needs, gaps or weaknesses of SEAs, LEAs, State VR agencies, and other VR service providers, including those located in rural areas, to implement practices and strategies that will promote collaboration among agency personnel, prevent students with disabilities from dropping out of school, and facilitate the transition from secondary school to college and careers. To meet this requirement, the applicant must—

(i) Demonstrate knowledge of new and emerging issues and TA needs related to pre-employment transition services, transition services, other VR

services, CTE, vocational education and training, dropout prevention, secondary transition, apprenticeship, and college and careers;

(ii) Demonstrate knowledge of exemplary transition activities, including pre-employment transition services, and career pathway models that will assist SEAs, LEAs, State VR agencies, and other VR service providers, in improving post-school outcomes for students with disabilities;

(iii) Demonstrate knowledge of current State VR agency and other efforts to improve engagement with secondary schools, charter schools, youth programs, and other programs that provide services to youth with disabilities for the purpose of assisting such youth to enter postsecondary education or competitive integrated employment; and

(iv) Present applicable national and State data demonstrating the training needs of SEAs, LEAs, State VR agencies, and other VR service providers to implement exemplary practices and strategies that will reduce high-school dropout rates and facilitate the transition to college and careers for students with disabilities;

(2) Demonstrate knowledge of high-risk populations including students with the most significant disabilities, students in foster care, military-connected students and youth, youth involved with the juvenile justice system, and youth who are homeless or using or abusing controlled substances; and

(3) Demonstrate knowledge of effective means to improve communication and engagement among students in public and nonpublic schools, parents, families, education professionals, employers, and SEA, LEA, and VR personnel to enhance collaboration and improve the post-school outcomes of students with disabilities.

(b) Demonstrate, in the narrative section of the application under "Quality of the project services," how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of the intended recipients for TA and information; and

(ii) Ensure that services and products meet the needs of the intended recipients of the grant;

(2) Achieve its goals, objectives, and intended outcomes. To meet this

⁶ Applicants must ensure the confidentiality of individual student data, consistent with the Confidentiality of Information regulations under both part B and part C of IDEA, which incorporate requirements and exceptions under section 444 of the General Education Provisions Act (20 U.S.C. 1232g), commonly known as the "Family Educational Rights and Privacy Act" (FERPA), but also include several provisions that are specifically related to children with disabilities receiving services under IDEA and provide protections beyond the FERPA regulations. Therefore, examining the IDEA requirements first is the most effective and efficient way to meet the requirements of both IDEA and FERPA for children with disabilities. Applicants should also be aware of State laws or regulations concerning the confidentiality of individual records. See www2.ed.gov/policy/gen/guid/ptac/pdf/idea-ferpa.pdf and studentprivacy.ed.gov/resources/ferpaidea-cross-walk. Final FERPA regulatory changes became effective January 3, 2012, and include requirements for data sharing. Applicants

are encouraged to review the final FERPA regulations published on December 2, 2011 (76 FR 75604). Questions can be directed to the Student Privacy Policy Office (www.ed.gov/fpco) at (202) 260-3887 or FERPA@ed.gov.

requirement, the applicant must provide—

(i) A plan for how the Center proposes to communicate, collaborate, and coordinate, on an ongoing basis with Parent Training and Information (PTI) centers funded under sections 671 and 681(d) of IDEA and the PTI centers and a national Center funded under section 303(c) of the Rehabilitation Act, as well as other Department-funded projects and those supported by other Federal agencies, including those funded by the Department of Health and Human Services, Administration on Community Living, as appropriate, and a description of how the Center will evaluate the effectiveness of its coordination and collaboration;

(ii) Measurable intended project outcomes; and

(iii) In Appendix A, the logic model⁷ by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals and how they will be measured, activities, outputs, and intended project outcomes of the proposed project;

(3) Use a conceptual framework (and provide a copy in Appendix A) to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: The following websites provide more information on logic models and conceptual frameworks:

www.osepideasthatwork.org/logicModel and www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta-tad-project-logic-model-and-conceptual-framework;

(4) Be based on current research on the most effective ways to prepare students with disabilities to participate in transition services, pre-employment transition services, other VR services, college, CTE, vocational education, and careers. To meet this requirement, the applicant must describe—

(i) The current research on the most effective ways to prepare students with disabilities for successful post-school outcomes;

(ii) The current research about adult learning principles and implementation science that will inform the proposed TA (section 101(a)(11)(D) of the Rehabilitation Act); and

⁷ “Logic model” (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.*, the active “ingredients” that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

(iii) How the proposed project will incorporate current research and practices in the development and delivery of its products and services (section 101(a)(11)(D) of the Rehabilitation Act);

(5) Develop new products or refine or update publicly available existing products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project (sections 103(a) and 113(d)(3) of the Rehabilitation Act). To address this requirement, the applicant must describe—

(i) How it proposes to identify or develop the knowledge base on supporting students with disabilities to stay in school, receive effective transition services, pre-employment transition services and VR services, CTE, and vocational education, and to be prepared for college and careers, including in STEM fields;

(ii) Its proposed approach to universal, general TA,⁸ which must identify the intended recipients, including the type and number of recipients, that will receive the products and services, a description of new or existing publicly available products that may be used and services that the Center proposes to make available, and the expected impact of those products and services under this approach; and

(iii) Its proposed approach to targeted, specialized TA,⁹ which must identify—

(A) The intended recipients, including the type and number of recipients, that will receive the products and services, a description of new or existing publicly available products that may be used and services that the Center proposes to make available, and the expected impact of those products and services under this approach; and

⁸ “Universal, general TA” means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center’s website by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

⁹ “Targeted, specialized TA” means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

(B) Its proposed approach to measure readiness of potential TA recipients to work with the project, assessing, at a minimum, their current infrastructure, available resources, and ability to build capacity at the local level; and

(iv) Its proposed approach to intensive, sustained TA,¹⁰ which must identify—

(A) The intended recipients, including the type and number of recipients, that will receive the products and services, a description of new or existing publicly available products that may be used and services that the Center proposes to make available, and the expected impact of those products and services under this approach;

(B) Its proposed approach to measure the readiness of SEAs, LEAs, State VR agencies, and other VR service providers to work with the project, including their commitment to the initiative, alignment of the initiative to their needs, and ability to build capacity, and implement and sustain TA at the local, district, or State level);

(C) Its proposed plan for assisting SEAs, LEAs, State VR agencies, and other VR service providers to build and sustain training systems that include professional development based on adult learning principles and coaching; and

(D) Its proposed plan for working with appropriate levels of the education and VR system (*e.g.*, SEAs, LEAs, State VR agencies, VR service providers, CTE and vocational education charter schools, private industry, employers, Health and Human Services personnel, Department of Labor personnel, dropout prevention specialists, transition-related professionals, postsecondary education professionals, regional TA providers, parents and families) to ensure that there is communication between each level and that there are systems in place to support the use of effective transition practices from school to college and careers.

(6) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

¹⁰ “Intensive, sustained TA” means TA services often provided on-site and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. “TA services” are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration; and

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes; and

(7) Develop a dissemination plan that describes how the applicant will systematically distribute information, products, and services to varied intended audiences, using a variety of dissemination strategies, to promote awareness and use of the Center's products and services.

(c) In the narrative section of the application under "Quality of the project evaluation," include an evaluation plan for the project as described in the following paragraphs. The evaluation plan must describe: measures of progress in implementation, including the criteria for determining the extent to which the project's products and services have met the goals for reaching its target population; measures of intended outcomes or results of the project's activities in order to evaluate those activities; and how well the goals or objectives of the proposed project, as described in its logic model, have been met. The applicant also must include a proposed plan for collecting baseline, targeted, and outcome data for each intensive TA site.

The applicant must provide an assurance that, in designing the evaluation plan, it will—

(1) Designate, with the approval of the OSEP and RSA project officers, a project liaison with sufficient dedicated time, experience in evaluation, and knowledge of the project to work in collaboration with the Center to Improve Program and Project Performance (CIPP),¹¹ the project director, and the OSEP project officer on the following tasks:

(i) Revise the logic model submitted in the application to provide for a more comprehensive measurement of implementation and outcomes and to reflect any changes or clarifications to the model discussed at the kick-off meeting;

(ii) Refine the evaluation design and instrumentation proposed in the

application consistent with the revised logic model and using the most rigorous design suitable (e.g., prepare evaluation questions about significant program processes and outcomes; develop quantitative or qualitative data collections that permit both the collection of progress data, including fidelity of implementation, as appropriate, and the assessment of project outcomes; and identify analytic strategies); and

(iii) Revise the evaluation plan submitted in the application such that it clearly—

(A) Specifies the evaluation questions, measures, and associated instruments or sources for data appropriate to answer these questions, suggests analytic strategies for those data, provides a timeline for conducting the evaluation, and includes staff assignments for completing the evaluation activities;

(B) Delineates the data expected to be available by the end of the second project year for use during the project's evaluation (3+2 review) for continued funding described under the heading *Fourth and Fifth Years of the Project*; and

(C) Can be used to assist the project director and the OSEP and RSA project officers, with the assistance of CIPP, as needed, to specify the project performance measures to be addressed in the project's annual performance report;

(2) Dedicate sufficient staff time and other resources during the first six months of the project to cooperate with CIPP staff, including regular meetings (e.g., weekly, biweekly, or monthly) with CIPP and the OSEP and RSA project officers, in order to accomplish the tasks described in paragraph (c)(1) of this section; and

(3) Dedicate sufficient funds in each budget year to cover the costs of carrying out the tasks described in paragraphs (c)(1) and (2) of this section and revising and implementing the evaluation plan. Please note in your budget narrative the funds dedicated for this activity.

(d) Demonstrate, in the narrative section of the application under "Adequacy of project resources," how—

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

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience, including knowledge of VR, to carry out the proposed activities

and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

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

(e) Demonstrate, in the narrative section of the application under "Quality of the management plan," how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, partners, subject matter experts, and contractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of parents and families, educators in public and nonpublic schools, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(2) Include, in the budget, attendance at the following:

(i) A two-day kick-off meeting in Washington, DC, after receipt of the award, and an annual planning meeting, with the OSEP and RSA project officers and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP and RSA project officers and the grantee's project director or other authorized representative;

(ii) A two and one-half day OSEP project directors' conference in Washington, DC, during each year of the project period;

(iii) Three annual two-day trips to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP and RSA; and

¹¹ The major tasks of CIPP are to guide, coordinate, and oversee the design of formative evaluations for every large discretionary investment (i.e., those awarded \$500,000 or more per year and required to participate in the 3+2 process) in OSEP's Technical Assistance and Dissemination; Personnel Development; Parent Training and Information Centers; and Educational Technology, Media, and Materials programs. The efforts of CIPP are expected to enhance individual project evaluation plans by providing expert and unbiased TA in designing the evaluations with due consideration of the project's budget. CIPP does not function as a third-party evaluator.

(iv) A two-day intensive 3+2 review meeting during the second year of the project period;

(3) Include, in the budget, a line item for an annual set-aside of five percent of OSEP's portion of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with, and approved by, the OSEP project officer. With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period;

(4) Maintain a high-quality website, with an easy-to-navigate design, that meets government or industry-recognized standards for accessibility including section 508 of the Rehabilitation Act. In meeting this requirement, applicants may develop new platforms or systems or may modify existing platforms or systems, so long as the requirements of this priority are met;

(5) Ensure that annual progress toward meeting project goals is posted on the project website;

(6) Disseminate grant products, information about targeted and universal TA activities, such as webinars and other relevant information, to a wide audience, as well as RSA's National Clearinghouse of Rehabilitation Training Materials (NCRTM) at www.ncrtm.ed.gov. The NCRTM is RSA's central repository for maintaining and sharing training and TA materials for the VR community; and

(7) Include, in Appendix A, two assurances. The first assurance is to assist OSEP and RSA with the transfer of pertinent resources and products and to maintain the continuity of services to TA recipients during the transition to this new award period and at the end of this award period, as appropriate. The second assurance is to ensure the applicant will track and report IDEA and Rehabilitation Act funds separately. Please refer to the *Funding Restrictions* section of the notice for more information about preparing the budget.

Fourth and Fifth Years of the Project:

In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), as well as—

(a) The recommendation of a 3+2 review team consisting of experts selected by the Secretary. This review will be conducted during a two-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The timeliness with which, and how well, the requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

References:

- English, D., Rasmussen, J., Cushing, E., & Theriault, S. (2016). *Leveraging Every Student Succeeds Act to support state visions for college and career readiness. College and Career Readiness and Success Center.* https://ccrscenter.org/sites/default/files/AskCCRS_LeveragingESSA.pdf.
- Thurlow, M., Test, D., Lazarus, S., Klare, M., & Fowler, C. (2016). *Considerations for developing state-defined alternate diplomas for students with significant cognitive disabilities.* University of Minnesota, National Center on Educational Outcomes; and University of North Carolina Charlotte, National Technical Assistance Center on Transition.

Waiver of Proposed Rulemaking:

Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities. Under the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program, section 681(d) of IDEA makes the public comment requirements of the APA inapplicable to the priority in this notice. Under the Demonstration and Training program, section 437(d)(1) of GEPA allows the Secretary to exempt from rulemaking requirements regulations governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program under section 29 U.S.C. 773(b)(5)(A) of the Rehabilitation Act and therefore qualifies for this exemption. In order to ensure timely grant awards, the Secretary has decided to forgo public comment on the priority under section 437(d)(1) of GEPA. This priority will apply to the FY 2020 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition.

Program Authorities: 20 U.S.C. 1463 and 1481; 29 U.S.C. 709(c) and 773(b).

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on

Government wide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The following definitions from 34 CFR part 361 apply: (1) "transition services" (34 CFR 361.5(c)(55)); (2) "pre-employment transition services" (34 CFR 361.5(c)(42) and 361.48(a)); (3) "VR services" (34 CFR 361.48(b)); (4) "student with a disability" (34 CFR 361.5(c)(51)); (5) "youth with disability" (34 CFR 361.5(c)(58)); (6) "competitive integrated employment" (34 CFR 361.5(c)(9)); (7) "supported employment" (34 CFR 361.5(c)(53)); and (8) "customized employment" (34 CFR 361.5(c)(11)). (e) The regulations in 34 CFR part 373 (Rehabilitation National Activities Program). (f) The regulations in 48 CFR part 31 (Contract Cost Principles and Procedures).

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds:

\$4,100,000

Rehabilitation Act funds: \$2,000,000.

IDEA funds: \$2,100,000.

Note: Applicants must address regulations outlining funding restrictions referenced in the *Applicable Regulations* section of this notice, in Part III Eligibility Determination, and in Part IV Application Submission Information of this notice. Applicants must submit an ED-524 budget form and include a budget narrative in the application specific to IDEA funding. Applicants must also submit an ED-524 budget form and include a budget narrative in the application specific to Rehabilitation Act funding.

Maximum Award: We will not make an award exceeding \$4,100,000 for a single budget period of 12 months.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs; LEAs, including public charter schools that operate as LEAs under State law; IHEs; other public agencies; private nonprofit

organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations.

2. *Cost Sharing or Matching:* There is no requirement for cost sharing or matching.

3. *Subgrantees:* Under 34 CFR 373.23(b), a grantee may not make a subgrant under the Rehabilitation National Activities Program. However, a grantee may contract for supplies, equipment, and other services, in accordance with 2 CFR part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) as adopted at 2 CFR part 3474. Therefore, the grantee may not use Rehabilitation Act funds to award subgrants. Under 34 CFR 75.708(b) and (c), a grantee under this competition may award subgrants using IDEA funds to directly carry out project activities described in its application and authorized under the IDEA to the following types of entities: IHEs and private nonprofit organizations suitable to carry out the activities proposed in the application and authorized under the IDEA. The grantee may award subgrants using IDEA funds to entities it has identified in an approved application.

4. *Other General Requirements:*

(a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA; 20 U.S.C. 1405).

(b) Applicants for, and recipients of, funding must, with respect to the aspects of their proposed project relating to the absolute priority, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA; 20 U.S.C. 1482).

IV. Application and Submission Information

1. *Application Submission*

Instructions: Applicants are required to follow Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3678) and available at www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf, which contain requirements and information on how to submit an application.

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the National Technical Assistance

Center on Transition for Students and Youth with Disabilities your application may include business information that you consider proprietary. In 34 CFR 5.11 we define “business information” and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended). Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information. Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under “Other Attachments Form,” please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make an award by the end of FY 2020.

4. *Funding Restrictions:* Regulations outlining funding restrictions are referenced in the *Applicable Regulations* section of this notice.

Under 34 CFR 373.23(b), the grantee is not permitted to subgrant using Rehabilitation Act funds.

Under 34 CFR 373.22(a), indirect cost reimbursement for grants under the Rehabilitation National Activities program is limited to the recipient's actual indirect costs, as determined by its negotiated indirect cost rate agreement, or 10 percent of the total direct cost base, whichever amount is less. This requirement only applies to the Rehabilitation Act funds. Eligible entities can apply their negotiated indirect cost rate for the IDEA funds.

Under 34 CFR 373.22(c), the 10 percent limit on indirect cost reimbursement for the Rehabilitation Act funds does not apply to federally recognized Indian Tribal governments and their Tribal representatives.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are as follows:

(a) *Significance (10 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(ii) The importance or magnitude of the results or outcomes likely to be attained by the proposed project.

(b) *Quality of project services (35 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which there is a conceptual framework underlying the proposed research or demonstration activities and the quality of that framework.

(iii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice.

(iv) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(v) The extent to which the TA services to be provided by the proposed project involve the use of efficient strategies, including the use of technology, as appropriate, and the leveraging of non-project resources.

(vi) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project.

(c) *Quality of the project evaluation (20 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation provide for examining the

effectiveness of project implementation strategies.

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(iv) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(d) *Adequacy of resources and quality of project personnel (15 points).*

(1) The Secretary considers the adequacy of resources for the proposed project and the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator.

(ii) The qualifications, including relevant training and experience, of key project personnel.

(iii) The qualifications, including relevant training and experience, of project consultants or subcontractors.

(iv) The qualifications, including relevant training, experience, and independence, of the evaluator.

(v) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

(vi) The adequacy and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

(vii) The extent to which the budget is adequate to support the proposed project.

(viii) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(e) *Quality of the management plan (20 points).*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(iii) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project.

(iv) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

2. Review and Selection Process: We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. Additional Review and Selection Process Factors: In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of

applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. Risk Assessment and Specific Conditions: Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. Integrity and Performance System: If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently \$250,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds \$10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed \$10,000,000.

VI. Award Administration Information

1. Award Notices: If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic

version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. Administrative and National Policy Requirements: We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. Open Licensing Requirements: Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. Reporting: (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to www.ed.gov/fund/grant/apply/appforms/appforms.html.

5. Performance Measures: Under the Government Performance Results Modernization Act of 2010, the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Technical Assistance and Dissemination to Improve Services and Results for Children With Disabilities program. These measures are:

- **Program Performance Measure 1:** The percentage of Technical Assistance and Dissemination products and services deemed to be of high quality by an independent review panel of experts qualified to review the substantive content of the products and services.

- **Program Performance Measure 2:** The percentage of Special Education Technical Assistance and Dissemination products and services deemed by an independent review panel of qualified experts to be of high relevance to educational and early intervention policy or practice.

- **Program Performance Measure 3:** The percentage of all Special Education Technical Assistance and Dissemination products and services deemed by an independent review panel of qualified experts to be useful in improving educational or early intervention policy or practice, including the preparation of students with disabilities for postsecondary education and employment.

- **Program Performance Measure 4:** The cost efficiency of the Technical Assistance and Dissemination Program includes the percentage of milestones achieved in the current annual performance report period and the percentage of funds spent during the current fiscal year.

- **Program Performance Measure 5:** For recipients of intensive TA, increase the number and quality of signed and executed formal interagency agreements among SEAs, LEAs, and State VR agencies that comply with the requirements in 34 CFR 361.22(b).

- **Long-term Program Performance Measure:** The percentage of States receiving Special Education Technical Assistance and Dissemination services regarding scientifically or evidence-based practices for infants, toddlers, children, and youth with disabilities that successfully promote the implementation of those practices in school districts and service agencies.

Applicants must also report the following for recipients of intensive and targeted TA: (a) Relevant data that substantiates increased provision of job exploration counseling, work-based learning experiences, counseling on

enrollment opportunities in comprehensive transition or postsecondary educational programs at IHEs, workplace readiness training, and instruction in self-advocacy through collaboration among State VR agencies and their service providers, SEAs, LEAs, and other workforce development partners, as appropriate; and (b) percentage of intensive TA sites that can attribute increases in competitive integrated employment, supported employment and customized employment, or other relevant measures, as appropriate, to the TA provided by the Center.

The measures apply to projects funded under this competition, and grantees are required to submit data on these measures as directed by OSEP and RSA.

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

The Department will also closely monitor the extent to which the products and services provided by the Center meet needs identified by stakeholders and may require the Center to report on such alignment in their annual and final performance reports.

6. Continuation Awards: In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

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

Electronic Access to This Document: The official version of this document is the document published in the **Federal**

Register. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Mark Schultz,

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

[FR Doc. 2020–13975 Filed 6–26–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection

AGENCY: Office of Legacy Management, U.S. Department of Energy.

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE) invites public comment on a proposed collection of information that DOE is developing for submission to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995.

DATES: Comments regarding this proposed information collection must be received on or before August 28, 2020. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Written comments may be sent to: U.S. Department of Energy, Office of Legacy Management, c/o Elizabeth Tran, 11035 Dover Street, Suite 600, Westminster, CO 80021 or by email at elizabeth.tran@lm.doe.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to U.S. Department of Energy Office of Legacy Management, c/o Elizabeth Tran, 11035 Dover Street, Suite 600, Westminster, CO 80021, (720)

377–9674, or by email at elizabeth.tran@lm.doe.gov.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, 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, including through the use of automated collection techniques or other forms of information technology.

This information collection request contains: (1) *OMB No.:* New; (2) *Information Collection Request Title:* Office of Legacy Management Interpretive Centers' Meeting Room Webforms; (3) *Type of Request:* New; (4) *Purpose:* To create an evergreen webform for meeting room requests from stakeholders for the Office of Legacy Management (LM) Interpretive Centers; (5) *Annual Estimated Number of Respondents:* 234; (6) *Annual Estimated Number of Total Responses:* 234; (7) *Annual Estimated Number of Burden Hours:* 234; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* \$14,941.16.

Statutory Authority

Division A, Title III, and 132 STAT. 2913 of Public Law 115–244: Energy and Water, Legislative Branch, and Military Construction and Veterans Affairs Appropriations Act, 2019

- Act Enacted FY 2019 appropriations for DOE Office of Legacy Management's mission of Long-Term Stewardship which includes outreach activities required to operate the interpretative centers.

Division C, Title III, and 133 STAT. 2675 of Public Law 116–94: Further Consolidated Appropriations Act, 2020

- Act Enacted FY 2020 appropriations for DOE Office of Legacy Management's mission of Long-Term Stewardship which includes outreach activities required to operate the interpretative centers.

Signing Authority

This document of the Department of Energy was signed on June 22, 2020, by Carmelo Melendez, Director, Office of Legacy Management, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is

maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC on June 24, 2020.

Treena V. Garrett,

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

[FR Doc. 2020–13924 Filed 6–26–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection

AGENCY: Office of Legacy Management, U.S. Department of Energy.

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE) invites public comment on a proposed collection of information that DOE is developing for submission to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995.

DATES: Comments regarding this proposed information collection must be received on or before August 28, 2020. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Written comments may be sent to: U.S. Department of Energy Office of Legacy Management, c/o Elizabeth Tran, 11035 Dover Street, Suite 600, Westminster, CO 80021 or by email at elizabeth.tran@lm.doe.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to U.S. Department of Energy, Office of Legacy Management, c/o Elizabeth Tran, 11035 Dover Street, Suite 600, Westminster, CO 80021, (720) 377–9674, or by email at elizabeth.tran@lm.doe.gov.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the

agency's estimate of the burden of the proposed collection of information, 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, including through the use of automated collection techniques or other forms of information technology.

This information collection request contains: (1) *OMB No.*: New; (2) *Information Collection Request Title*: Office of Legacy Management Interpretive Centers' Field Trip and Outreach Program Webforms; (3) *Type of Request*: New; (4) *Purpose*: To create an evergreen webform for Field Trip and Outreach Program requests from stakeholders for the Office of Legacy Management (LM) Interpretive Centers; (5) *Annual Estimated Number of Respondents*: 391; (6) *Annual Estimated Number of Total Responses*: 391; (7) *Annual Estimated Number of Burden Hours*: 471; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden*: \$30,742.71.

Statutory Authority

Division A, Title III, and 132 STAT.

2913 of Public Law 115-244: Energy and Water, Legislative Branch, and Military Construction and Veterans Affairs Appropriations Act, 2019

- Act Enacted FY 2019

appropriations for DOE Office of Legacy Management's mission of Long-Term Stewardship which includes outreach activities required to operate the interpretative centers.

Division C, Title III, and 133 STAT.

2675 of Public Law 116-94: Further Consolidated Appropriations Act, 2020

- Act Enacted FY 2020

appropriations for DOE Office of Legacy Management's mission of Long-Term Stewardship which includes outreach activities required to operate the interpretative centers.

Signing Authority

This document of the Department of Energy was signed on June, 22, 2020, by Carmelo Melendez, Director, Office of Legacy Management, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for

publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on June, 24 2020.

Treena V. Garrett,

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

[FR Doc. 2020-13923 Filed 6-26-20; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20-2125-000]

WGP Redwood Holdings, 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 WGP Redwood Holdings, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 13, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC

20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Dated: June 23, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020-13911 Filed 6-26-20; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG20-196-000.

Applicants: Hardin Solar Energy LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Hardin Solar Energy LLC.

Filed Date: 6/22/20.

Accession Number: 20200622-5162.

Comments Due: 5 p.m. ET 7/13/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER04-835-010.

Applicants: California Independent System Operator Corporation.

Description: Response to May 21, 2020 Deficiency Letter of California Independent System Operator Corporation.

Filed Date: 6/22/20.

Accession Number: 20200622-5214.

Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: ER17-105-005; ER17-104-005; ER17-556-004; ER15-

1019-007; ER10-1362-004; ER12-2639-009; ER10-2628-006; ER18-2158-001; ER11-3959-008; ER20-1722-000.

Applicants: Broadview Energy JN, LLC, Broadview Energy KW, LLC, Grady Wind Energy Center, LLC, Fowler Ridge IV Wind Farm LLC, Hatchet Ridge Wind, LLC, Spring Valley Wind LLC, Ocotillo Express LLC, Lost Creek Wind, LLC, Post Rock Wind Power Project, LLC, Stillwater Wind, LLC.

Description: Supplement to April 20, 2020 Notice of Change in Status of the Pattern MBR Entities, et al.

Filed Date: 6/23/20.

Accession Number: 20200623-5181.

Comments Due: 5 p.m. ET 7/14/20.

Docket Numbers: ER20-80-002.

Applicants: Meadow Lake Wind Farm VI LLC.

Description: Compliance filing: Meadow Lake Wind Farm VI LLC, Docket No. ER20-80-002 to be effective 12/9/2019.

Filed Date: 6/23/20.

Accession Number: 20200623-5060.

Comments Due: 5 p.m. ET 7/14/20.

Docket Numbers: ER20-1061-003.

Applicants: Turquoise Nevada LLC.

Description: Tariff Amendment: Second Amended and Restated Shared Facilities Agreement to be effective 2/22/2020.

Filed Date: 6/23/20.

Accession Number: 20200623-5136.

Comments Due: 5 p.m. ET 7/14/20.

Docket Numbers: ER20-1120-002.

Applicants: Paper Birch Energy, LLC.

Description: Tariff Amendment: Response to Additional Information Request to be effective 4/29/2020.

Filed Date: 6/23/20.

Accession Number: 20200623-5067.

Comments Due: 5 p.m. ET 7/14/20.

Docket Numbers: ER20-1650-001.

Applicants: Little Bear Master Tenant, LLC.

Description: Tariff Amendment: Supplement to Market-Based Rate Petition and Revised Market-Based Rate Tariff to be effective 6/24/2020.

Filed Date: 6/22/20.

Accession Number: 20200622-5181.

Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: ER20-1673-001.

Applicants: Midcontinent

Independent System Operator, Inc.

Description: Tariff Amendment: 2020-06-23 Amendment to Compensation for Restoration Energy Filing to be effective 6/28/2020.

Filed Date: 6/23/20.

Accession Number: 20200623-5117.

Comments Due: 5 p.m. ET 6/30/20.

Docket Numbers: ER20-1703-000.

Applicants: Capital Energy PA LLC.

Description: Supplement to April 30, 2020 Capital Energy PA LLC tariff filing.

Filed Date: 6/22/20.

Accession Number: 20200622-5198.

Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: ER20-1942-001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Tariff Amendment: 2020-06-22 Amendment to Conventional Deliverable ICAP Filing to be effective 8/12/2020.

Filed Date: 6/22/20.

Accession Number: 20200622-5173.

Comments Due: 5 p.m. ET 6/29/20.

Docket Numbers: ER20-2115-000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of ISA No. 3568, Queue No. Y2-098 to be effective 8/31/2020.

Filed Date: 6/22/20.

Accession Number: 20200622-5164.

Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: ER20-2116-000.

Applicants: Forward WindPower LLC.

Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 6/23/2020.

Filed Date: 6/22/20.

Accession Number: 20200622-5168.

Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: ER20-2117-000.

Applicants: Lookout WindPower LLC.

Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 6/23/2020.

Filed Date: 6/22/20.

Accession Number: 20200622-5169.

Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: ER20-2118-000.

Applicants: Pinnacle Wind, LLC.

Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 6/23/2020.

Filed Date: 6/22/20.

Accession Number: 20200622-5170.

Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: ER20-2119-000.

Applicants: ISO New England Inc., Versant Power.

Description: § 205(d) Rate Filing: Versant Power; Notice of Succession to ISO-NE Schedules 20A-EM and 21-EM to be effective 5/11/2020.

Filed Date: 6/22/20.

Accession Number: 20200622-5171.

Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: ER20-2120-000.

Applicants: Duke Energy Progress, LLC.

Description: Tariff Cancellation: Notice of Cancellation of Reimbursement Agreements RS 353, 355, 356, 357, 358 to be effective 9/1/2020.

Filed Date: 6/22/20.

Accession Number: 20200622-5174.

Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: ER20-2121-000.

Applicants: Sierra Pacific Power Company.

Description: § 205(d) Rate Filing: Service Agreement No. 20-00023 to be effective 6/23/2020.

Filed Date: 6/22/20.

Accession Number: 20200622-5175.

Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: ER20-2122-000.

Applicants: Carolina Power Partners, LLC.

Description: § 205(d) Rate Filing: Carolina Power Partners, LLC—Filing of Revised Tariff to be effective 4/6/2020.

Filed Date: 6/22/20.

Accession Number: 20200622-5176.

Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: ER20-2123-000.

Applicants: Hardin Solar Energy LLC.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 8/23/2020.

Filed Date: 6/22/20.

Accession Number: 20200622-5177.

Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: ER20-2124-000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to WMPA, SA No. 5488; Queue No. AE2-006 (amend) to be effective 9/12/2019.

Filed Date: 6/22/20.

Accession Number: 20200622-5178.

Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: ER20-2125-000.

Applicants: WGP Redwood Holdings, LLC.

Description: Baseline eTariff Filing: Market-Based Rate Tariff Application to be effective 6/23/2020.

Filed Date: 6/22/20.

Accession Number: 20200622-5179.

Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: ER20-2126-000.

Applicants: Wolverine Power Supply Cooperative, Inc.

Description: § 205(d) Rate Filing: Amended Restated Interconnection Facilities Agreement for Gray Station to be effective 6/23/2020.

Filed Date: 6/22/20.

Accession Number: 20200622-5180.

Comments Due: 5 p.m. ET 7/13/20.

Docket Numbers: ER20-2127-000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3001R1 Evergy Missouri West & AECI Interconnection Agreement to be effective 8/22/2020.

Filed Date: 6/23/20.

Accession Number: 20200623-5058.

Comments Due: 5 p.m. ET 7/14/20.

Docket Numbers: ER20-2128-000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3198R1 Evergy MO West & City of Gilman City, MO Inter. Agr. to be effective 8/22/2020.

Filed Date: 6/23/20.

Accession Number: 20200623–5068.
Comments Due: 5 p.m. ET 7/14/20.

Docket Numbers: ER20–2129–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing: Rate Schedule FERC No. 274 between Tri-State and Empire to be effective 6/24/2020.

Filed Date: 6/23/20.

Accession Number: 20200623–5074.
Comments Due: 5 p.m. ET 7/14/20.

Docket Numbers: ER20–2130–000.

Applicants: Greenleaf Energy Unit 1 LLC.

Description: Tariff Cancellation: Greenleaf Energy Unit 1, LLC Notice of Cancellation of MBR Tariff to be effective 6/24/2020.

Filed Date: 6/23/20.

Accession Number: 20200623–5088.
Comments Due: 5 p.m. ET 7/14/20.

Docket Numbers: ER20–2131–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 2652R4 Waverly Wind Farm LLC GIA to be effective 8/22/2020.

Filed Date: 6/23/20.

Accession Number: 20200623–5100.
Comments Due: 5 p.m. ET 7/14/20.

Docket Numbers: ER20–2132–000.

Applicants: Edgcombe Genco, LLC.

Description: Notice of Cancellation of Market-Based Rate Tariff of Edgcombe Genco, LLC.

Filed Date: 6/23/20.

Accession Number: 20200623–5121.
Comments Due: 5 p.m. ET 7/14/20.

Docket Numbers: ER20–2133–000.

Applicants: ISO New England Inc., Versant Power.

Description: Compliance filing: Versant Power; Changes to Schedule 21–VP in Compliance with Order No. 864 to be effective 6/1/2020.

Filed Date: 6/23/20.

Accession Number: 20200623–5130.
Comments Due: 5 p.m. ET 7/14/20.

Docket Numbers: ER20–2134–000.

Applicants: Cimarron Bend Wind Project III, LLC.

Description: Baseline eTariff Filing: Cimarron Bend Wind Project III MBR Tariff to be effective 8/24/2020.

Filed Date: 6/23/20.

Accession Number: 20200623–5133.
Comments Due: 5 p.m. ET 7/14/20.

Docket Numbers: ER20–2135–000.

Applicants: RE Mustang Two Whirlaway LLC.

Description: § 205(d) Rate Filing: RE Mustang Two Whirlaway LLC SFA to be effective 6/24/2020.

Filed Date: 6/23/20.

Accession Number: 20200623–5139.

Comments Due: 5 p.m. ET 7/14/20.

Docket Numbers: ER20–2136–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1298R1 Evergy Kansas South and AECI Interconnection Agr to be effective 8/22/2020.

Filed Date: 6/23/20.

Accession Number: 20200623–5146.

Comments Due: 5 p.m. ET 7/14/20.

Docket Numbers: ER20–2137–000.

Applicants: Starvation Solar I, LLC.

Description: Baseline eTariff Filing: Starvation Solar I, LLC SFA Concurrence to be effective 6/24/2020.

Filed Date: 6/23/20.

Accession Number: 20200623–5176.

Comments Due: 5 p.m. ET 7/14/20.

Docket Numbers: ER20–2138–000.

Applicants: Fort Rock Solar I, LLC.

Description: Baseline eTariff Filing: Fort Rock Solar I, LLC SFA Concurrence to be effective 6/24/2020.

Filed Date: 6/23/20.

Accession Number: 20200623–5177.

Comments Due: 5 p.m. ET 7/14/20.

Docket Numbers: ER20–2139–000.

Applicants: Fort Rock Solar IV, LLC.

Description: Baseline eTariff Filing: Fort Rock Solar IV, LLC SFA Concurrence to be effective 6/24/2020.

Filed Date: 6/23/20.

Accession Number: 20200623–5178.

Comments Due: 5 p.m. ET 7/14/20.

Docket Numbers: ER20–2140–000.

Applicants: Riley Solar I, LLC.

Description: Baseline eTariff Filing: Riley Solar I, LLC SFA Concurrence to be effective 6/24/2020.

Filed Date: 6/23/20.

Accession Number: 20200623–5179.

Comments Due: 5 p.m. ET 7/14/20.

Docket Numbers: ER20–2141–000.

Applicants: Fort Rock Solar IV, LLC.

Description: § 205(d) Rate Filing: Fort Rock Solar IV, LLC SFA Concurrence to be effective 6/24/2020.

Filed Date: 6/23/20.

Accession Number: 20200623–5182.

Comments Due: 5 p.m. ET 7/14/20.

Docket Numbers: ER20–2142–000.

Applicants: Fort Rock Solar I, LLC.

Description: § 205(d) Rate Filing: Fort Rock Solar I, LLC SFA Concurrence to be effective 6/24/2020.

Filed Date: 6/23/20.

Accession Number: 20200623–5183.

Comments Due: 5 p.m. ET 7/14/20.

Docket Numbers: ER20–2143–000.

Applicants: RE Mustang Two Barbaro LLC.

Description: § 205(d) Rate Filing: RE Mustang Two Barbaro, LLC Certificate of Concurrence with SFA to be effective 6/24/2020.

Filed Date: 6/23/20.

Accession Number: 20200623–5184.

Comments Due: 5 p.m. ET 7/14/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 23, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–13907 Filed 6–26–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[RM19–18–000]

Formal Requirements for Filings in Proceedings Before the Commission; Notice Regarding Effective Date

On August 27, 2019, the Commission issued a Final Rule in Docket No. RM19–18–000 requiring that deliveries of filings and submissions, other than by the United States Postal Service, be sent to an off-site facility¹ for security screening and processing.² The Final Rule indicated that the new regulation would take effect 60 days after the date of publication of the Final Rule in the **Federal Register**. On October 11, 2019, the Secretary issued a notice, stating that the effective date for the Final Rule was postponed indefinitely to ensure that the public and the Commission make an effective transition to utilizing the off-site facility. This notice hereby

¹ Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

² *Formal Requirements for Filings in Proceedings Before the Commission*, 168 FERC ¶ 61,120 (2019) (Final Rule).

announces that the Final Rule will become effective on July 1, 2020.

Dated: June 23, 2020.

Kimberly D. Bose,
Secretary.

[FR Doc. 2020–13917 Filed 6–26–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15032–000]

ECOsponsible, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On May 6, 2020, ECOsponsible, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of hydropower at the existing Springville Dam located on Cattaraugus Creek in the town of Concord in Erie County, New York. 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 Springville Dam Hydro Project would redevelop an abandoned project and would consist of the following: (1) An existing 338-foot-long and 40-foot-high concrete gravity dam with a 182-foot-long spillway; (2) an existing impoundment; (3) an existing powerhouse to be rebuilt and to include two new identical turbine-generator units with an installed capacity of 500 kilowatts each; (4) a new 4.8- to 13.2-kilovolt, 500-foot-long transmission line extending from the powerhouse to a grid interconnection point; and (5) appurtenant facilities. The proposed project would have an annual generation of 6.5 gigawatt-hours.

Applicant Contact: Dennis Ryan, ECOsponsible, LLC, P.O. Box 114, West Falls, NY 14170; phone: (716) 222–2188.

FERC Contact: Monir Chowdhury; phone: (202) 502–6736.

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, (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

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–15032) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: June 23, 2020.

Kimberly D. Bose,
Secretary.

[FR Doc. 2020–13916 Filed 6–26–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–1703–000]

Capital Energy PA 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 Capital Energy PA LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and

assumptions of liability, is July 13, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://ferc.gov>) using the “eLibrary” link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at FERCOnlineSupport@ferc.gov or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Dated: June 23, 2020.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2020–13909 Filed 6–26–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–2123–000]

Hardin Solar Energy LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Hardin

Solar Energy LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 13, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Dated: June 23, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020-13910 Filed 6-26-20; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP19-810-000.

Applicants: Tallgrass Interstate Gas Transmission, L, Trailblazer Pipeline Company LLC, Rockies Express Pipeline LLC.

Description: Request for Additional Time to Implement NAESB Standards of the Tallgrass Pipelines under RP19-810, et al.

Filed Date: 6/18/20.

Accession Number: 20200618-5157.

Comments Due: 5 p.m. ET 6/30/20.

Docket Numbers: RP19-811-000.

Applicants: Tallgrass Interstate Gas Transmission, L, Trailblazer Pipeline Company LLC, Rockies Express Pipeline LLC.

Description: Request for Additional Time to Implement NAESB Standards of the Tallgrass Pipelines under RP19-810, et al.

Filed Date: 6/18/20.

Accession Number: 20200618-5157.

Comments Due: 5 p.m. ET 6/30/20.

Docket Numbers: RP19-812-000.

Applicants: Tallgrass Interstate Gas Transmission, L, Trailblazer Pipeline Company LLC, Rockies Express Pipeline LLC.

Description: Request for Additional Time to Implement NAESB Standards of the Tallgrass Pipelines under RP19-810, et al.

Filed Date: 6/18/20.

Accession Number: 20200618-5157.

Comments Due: 5 p.m. ET 6/30/20.

Docket Numbers: RP20-962-000.

Applicants: Texas Eastern Transmission, LP.

Description: § 4(d) Rate Filing: Negotiated Rates—Chevron Release to Eco eff 07-01-20 to be effective 7/1/2020.

Filed Date: 6/22/20.

Accession Number: 20200622-5165.

Comments Due: 5 p.m. ET 7/6/20.

Docket Numbers: RP20-963-000.

Applicants: Lake Charles LNG Company, LLC.

Description: Tariff Cancellation: Cancellation of Tariff to be effective 8/21/2020.

Filed Date: 6/22/20.

Accession Number: 20200622-5166.

Comments Due: 5 p.m. ET 7/6/20.

Docket Numbers: RP20-964-000.

Applicants: Saltville Gas Storage Company L.L.C.

Description: § 4(d) Rate Filing: Saltville Cleanup Filing to be effective 7/22/2020.

Filed Date: 6/22/20.

Accession Number: 20200622-5167.

Comments Due: 5 p.m. ET 7/6/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: June 23, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020-13908 Filed 6-26-20; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2007-0563; FRL-10011-72-OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Volatile Organic Compound Emission Standards for Consumer Products (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) has submitted an information collection request (ICR), National Volatile Organic Compound Emission Standards for Consumer Products (EPA ICR Number 1764.08, OMB Control Number 2060-0348) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed

extension of the Information Collection Request (ICR), which is currently approved through August 31, 2020. Public comments were previously requested via the **Federal Register** on December 2, 2019, during a 60-day comment period. No comments were received on that document. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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.

DATES: Additional comments may be submitted on or before July 29, 2020.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA-HQ-OAR-2007-0563, to the EPA online using <https://www.regulations.gov/> (our preferred method), by email to a-and-r-docket@epa.gov, or by mail to EPA Docket Center, U.S. Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

The EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information, or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Ms. Kaye Whitfield, Sector Policies and Programs Division (D243-04), Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-2509; fax number: (919) 541-4991; email address: Whitfield.kaye@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at <https://www.regulations.gov/> or in person at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the EPA Docket Center is (202) 566-

1744. For additional information about the EPA's public docket, visit <https://www.epa.gov/dockets>.

Abstract: The EPA is required under section 183(e) of the Clean Air Act (CAA) to regulate volatile organic compound (VOC) emissions from the use of consumer and commercial products. Pursuant to CAA section 183(e)(3), the EPA published a list of consumer and commercial products and a schedule for their regulation (60 FR 15264). The standards for consumer products are codified at 40 CFR part 59, subpart C. The information collection includes initial reports and periodic recordkeeping necessary for the EPA to ensure compliance with Federal standards for VOC in consumer products. Respondents are manufacturers, distributors, and importers of consumer products. All information submitted to the EPA for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in 40 CFR part 2, subpart B, Confidentiality of Business Information. The reports required under the standards enable the EPA to identify all consumer products manufacturers, distributors, and importers in the United States and to determine which consumer products are subject to the standards.

Form Numbers: None.

Respondents/affected entities: Entities potentially affected by this action as respondents are manufacturers, distributors, and importers of consumer products.

Respondent's obligation to respond: Responses to the collection are mandatory under 40 CFR part 59, subpart C.

Estimated number of respondents: 300 (total).

Frequency of response: On occasion.

Total estimated burden: 16,126 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: \$1,765,427 (per year), includes \$0 annualized capital or operation and maintenance costs.

Changes in the estimates: There is no change in the burden estimate currently approved by OMB.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2020-13928 Filed 6-26-20; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OECA-2013-0325; FRL-10011-66-OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Benzene Emissions From Benzene Storage Vessels and Coke Oven By-Product Recovery Plants (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Benzene Emissions from Benzene Storage Vessels and Coke Oven By-Product Recovery Plants (EPA ICR Number 1080.16, OMB Control Number 2060-0185), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through August 31, 2020. Public comments were previously requested, via the **Federal Register**, on May 6, 2019 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before July 29, 2020.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA-HQ-OECA-2013-0325, to: (1) EPA online using www.regulations.gov (our preferred method), or by email to docket.oeca@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to oir_submission@omb.eop.gov. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance,

and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-2970; fax number: (202) 564-0050; email address: yellin.patrick@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov, or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 02-566-1744. For additional information about EPA's public docket, visit: <http://www.epa.gov/dockets>.

Abstract: The NESHAP for Coke Oven By-Product Recovery Plants (40 CFR part 61, subpart L) were promulgated on September 14, 1989 (54 FR 38073) and amended on February 12, 1999 (64 FR 7458). These regulations apply to each of the following benzene emission sources at furnace and foundry coke by-product recovery plants: Tar decanters, tar storage tanks, tar-intercepting sumps, flushing-liquor circulation tanks, light-oil sumps, light-oil condensers, light-oil decanters, wash-oil decanters, wash-oil circulation tanks, naphthalene processing, final coolers, final-cooler cooling towers, and equipment intended to operate in benzene service, including: Pumps, valves, exhausters, pressure relief devices, sampling connection systems, open-ended valves or lines, flanges or other connectors, and other control devices or systems. The provisions of this subpart also apply to benzene storage tanks, BTX (benzene-toluene-xylene) storage tanks, light-oil storage tanks, and excess ammonia-liquor storage tanks at furnace coke by-product recovery plants. This information is being collected to assure compliance with 40 CFR part 61, subpart L.

The NESHAP for Benzene Emissions from Benzene Storage Vessels (40 CFR part 61, subpart Y) were promulgated on September 14, 1989 (54 FR 38077) and amended on December 14, 2000 (65 FR 78268). These standards apply to each benzene storage vessel with a design storage capacity greater than or equal to 38 cubic meters (10,000 gallons). This subpart does not apply to: (1) Storage vessels used for storing benzene at coke by-product facilities; (2) vessels permanently attached to motor vehicles—such as trucks, rail cars, barges or ships; and (3) pressure vessels designed to operate in excess of 204.9

kPa (29.72 psia) and without emissions to the atmosphere. This information is being collected to assure compliance with 40 CFR part 61, subpart Y.

In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NESHAP.

Form Numbers: None.

Respondents/affected entities: Owners or operators of benzene storage vessels and coke oven by-product recovery plants.

Respondent's obligation to respond: Mandatory (40 CFR part 41, subparts L and Y).

Estimated number of respondents: 13 (total).

Frequency of response: Occasionally, semiannually, and annually.

Total estimated burden: 1,730 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$201,000 (per year), which includes \$0 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is an adjustment decrease in the total estimated burden as currently identified in the OMB Inventory of Approved Burdens. This increase is not due to any program changes. Based on consultations with industry, the number of coke plants subject to Subpart L has been revised since the previous ICR, while the number of facilities subject to Subpart Y remains unchanged. The number of coke plants subject to Subpart L reflects a decrease in the number of operating coke by-product recovery plants. This change results in a decrease in both burden hours and the number of responses.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2020-13892 Filed 6-26-20; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OECA-2013-0315; FRL-10011-70-OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Commercial and Industrial Solid Waste Incineration (CISWI) Units (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NSPS for Commercial and Industrial Solid Waste Incineration (CISWI) Units (EPA ICR Number 2384.05, OMB Control Number 2060-0662), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through August 31, 2020. Public comments were previously requested, via the **Federal Register**, on May 6, 2019 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before July 29, 2020.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA-HQ-OECA-2013-0315, to: (1) EPA online using www.regulations.gov (our preferred method), or by email to docket.oeca@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to oira_submission@omb.eop.gov. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the

proposed information collection within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-2970; fax number: (202) 564-0050; email address: yellin.patrick@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov, or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit: <http://www.epa.gov/dockets>.

Abstract: The New Source Performance Standards (NSPS) for Commercial and Industrial Solid Waste Incineration (CISWI) Units (40 CFR part 60, subpart CCCC) were proposed on November 30, 1999, promulgated on December 01, 2000, and most-recently amended on: February 7, 2013; June 23, 2016; and April 16, 2019. The 2013 amendment re-established emission limits and expanded the rule to cover these CISWI subcategories: energy recovery units; waste burning kilns; incinerators; and small, remote incinerators. The 2016 amendment finalized reconsiderations to certain aspects to the 2013 amendment and finalized actions on the following four topics: the definition of “continuous emission monitoring system (CEMS) data during startup and shutdown periods;” the particulate matter (PM) limit for the waste-burning kiln subcategory; the fuel variability factor (FVF) for coal-burning energy recovery units (ERUs); and the definition of “kiln.” The 2019 amendments further clarified implementation of the 2016 standards, including certain testing and monitoring issues and inconsistencies, and editorial corrections and errors within the rules that required clarification or correction. These regulations apply to Commercial and Industrial Solid Waste Incineration (CISWI) units that either commenced construction after June 4, 2010, or

commenced reconstruction or modification after August 7, 2013. This information is being collected to assure compliance with 40 CFR part 60, subpart CCCC.

In general, all NSPS standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NSPS.

Form Numbers: None.

Respondents/affected entities:

Owners and operators of commercial and industrial solid waste incineration (CISWI) units that commenced construction after June 4, 2010 or commenced reconstruction or modification after August 7, 2013.

Respondent's obligation to respond:

Mandatory (40 CFR part 60 Subpart CCCC).

Estimated number of respondents: 11 (total).

Frequency of response: Semiannually and annually.

Total estimated burden: 1,700 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$970,000 (per year), which includes \$769,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is an adjustment increase in the total estimated burden as currently identified in the OMB Inventory of Approved Burdens. This increase is not due to any program changes. The change in the burden and cost estimates occurred because there is a small increase in the number of sources subject to the rule due to continued, albeit low-growth, within the industry. This ICR reflects the on-going burden and costs for existing facilities. We have adjusted the burden to reflect the increased number of existing respondents that perform annual performance tests, annual monitoring, refresher training, and report parameter exceedances. In addition, there are a small number of new facilities that are in the initial compliance phase, whose costs include purchasing monitoring equipment, conducting performance tests and establishing recordkeeping systems. The

overall result is an increase in burden hours and costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2020-13930 Filed 6-26-20; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-OAR-2019-0631; FRL-10011-73-OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Regional Haze Regulations (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Regional Haze Regulations (EPA ICR Number 2540.03, OMB Control Number 2060-0704) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). This is a proposed extension of the ICR, which is currently approved through August 31, 2020. Public comments were previously requested via the **Federal Register** on November 27, 2019, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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.

DATES: Additional comments may be submitted on or before July 29, 2020.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2019-0631, at <http://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 (e.g., 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>. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room was closed to public visitors on March 31, 2020, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via <https://www.regulations.gov> or email, as there is a temporary suspension of mail delivery to EPA, and no hand deliveries are currently accepted. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>. Publicly available docket materials are available either electronically in <http://www.regulations.gov>. The telephone number for the Air and Radiation Docket and Information Center is (202) 566-1742. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at: <http://www.epa.gov/epahome/dockets.htm>.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Joseph Stein, Air Quality Policy Division, Office of Air Quality Planning and Standards, mail code C539-04, U.S. Environmental Protection Agency, Research Triangle Park, NC 27709; telephone number: (919) 541-0195; fax number: (919) 541-4028; email address: stein.joseph@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at <https://www.regulations.gov>. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Abstract: This ICR is for activities related to the implementation of the EPA's Regional Haze Rule, for the time period between August 31, 2020, and August 31, 2023, and renews the previous ICR. The Regional Haze Rule codified at 40 CFR parts 308 and 309, as authorized by sections 169A and 169B of the Clean Air Act, requires states to develop implementation plans to protect visibility in 156 federally protected Class I areas. Tribes may choose to develop implementation plans. For this time period, states will primarily be developing and submitting periodic comprehensive implementation plan revisions to comply with the regulations.

Form Numbers: None.

Respondents/affected entities: Entities potentially affected by this action are state, local and tribal air quality agencies, regional planning organizations and facilities potentially regulated under the Regional Haze Rule.

Respondent's obligation to respond: Mandatory [see 40 CFR 51.308(b), (f) and (g) and 40 CFR 51.309(d)(10)].

Estimated number of respondents: 52 (total); 52 state agencies.

Frequency of response: Approximately every 5 years.

Total estimated burden: 38,255 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: \$2,050,007 (per year). There are no annualized capital or operation & maintenance costs.

Changes in Estimates: There is an increase of 24,945 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase in burden reflects changes in the activities conducted due to the normal progression of the program, especially the fact that states will be working on and submitting periodic comprehensive State Implementation Plan (SIP) revisions. There are 52 SIP revisions due by July 31, 2021.

Courtney Kerwin,

Director, Collection Strategies Division.

[FR Doc. 2020-13929 Filed 6-26-20; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0132; FRS 16869]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: 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; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; 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; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written comments should be submitted on or before August 28, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION: The FCC 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.

As part of its continuing effort to reduce paperwork burdens, and as required by the PRA of 1995 (44 U.S.C. 3501-3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: 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;

the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; 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; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control No.: 3060-0132.

Title: Supplemental Information—72–76 MHz Operational Fixed Stations, FCC Form 1068A.

Form No.: FCC Form 1068A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or household; state, local or tribal government; business or other for-profit entities; not-for-profit institutions.

Number of Respondents and Responses: 300 respondents and 300 responses.

Estimated Time per Response: 30 minutes.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 CFR 90.257 of the Commission's rules and the Communications Act of 1934, as amended.

Total Annual Burden: 150 hours.

Total Annual Cost: No costs.

Privacy Act Impact Assessment: Yes. The FCC has a System of Records Notice (SORN), FCC/WTB-1, "Wireless Services Licensing Records", to cover the personally identifiable information affected by these information collection requirements. At this time, the Commission (FCC) is not required to complete a Privacy Impact Assessment.

Nature and Extent of Confidentiality: In general, there is no need for confidentiality. On a case by case basis, the Commission may be required to withhold from disclosure certain information about the location, character, or ownership of a historic property, including traditional religious sites.

Needs and Uses: FCC rules require that the applicant agrees to eliminate any harmful Interference caused by the operation to TV reception on either channel 4 or 5 that might develop. This form is required by the Communications Act of 1934, as amended; International Treaties and FCC Rules 47 CFR 90.257. FCC staff will use the data to determine if the information submitted will meet the FCC Rule requirements for the

assignment of frequencies in the 72–76 MHz band.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2020-13895 Filed 6-26-20; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0501; FRS 16863]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: 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; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; 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; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written comments should be submitted on or before August 28, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION: The FCC 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.

As part of its continuing effort to reduce paperwork burdens, and as required by the PRA of 1995 (44 U.S.C. 3501–3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: 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; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; 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; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060-0501.

Title: Section 73.1942 Candidates Rates; Section 76.206 Candidate Rates; Section 76.1611 Political Cable Rates and Classes of Time.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 17,561 respondents; 403,610 responses.

Estimated Time per Response: 0.5 hours to 20 hours.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirement; Semi-annual requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i) and 315 of the Communications Act of 1934, as amended.

Total Annual Burden: 927,269 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: Section 315 of the Communications Act directs broadcast stations and cable operators to charge political candidates the "lowest unit charge of the station" for the same class

and amount of time for the same period, during the 45 days preceding a primary or runoff election and the 60 days preceding a general or special election.

The information collection requirements contained in 47 CFR 73.1942 require broadcast licensees and the requirements contained in 47 CFR 76.206 require cable television systems to disclose any station practices offered to commercial advertisers that enhance the value of advertising spots and different classes of time (immediately preemptible, preemptible with notice, fixed, fire sale, and make good). These rule sections also require licensees and cable TV systems to calculate the lowest unit charge. Broadcast stations and cable systems are also required to review their advertising records throughout the election period to determine whether compliance with these rule sections require that candidates receive rebates or credits.

The information collection requirements contained in 47 CFR 76.1611 require cable systems to disclose to candidates information about rates, terms, conditions and all value-enhancing discount privileges offered to commercial advertisers.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2020-13896 Filed 6-26-20; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1240; FRS 16868]

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 can further reduce the information collection burden for small business concerns with fewer than 25 employees.

DATES: Written comments and recommendations for the proposed

information collection should be submitted on or before July 29, 2020.

ADDRESSES: Comments should be sent to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Your comment must be submitted into www.reginfo.gov per the above instructions for it to be considered. In addition to submitting in www.reginfo.gov also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to PRA@fcc.gov and to 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: 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.

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: 3060-1240.

Title: FCC Form 2100, Application for Media Bureau Video Service Authorization, Schedule 387 (Transition Progress Report).

Form Number: FCC Form 2100, Schedule 387 (Transition Progress Report Form).

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions.

Number of Respondents and Responses: 1,000 respondents; 3,333 responses.

Estimated Time per Response: 2 hours (1 hour to complete the form, 1 hour to respond to technical questions).

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 6,666 hours.

Total Annual Costs: No costs.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Public Law 112-96, 6402 (codified at 47 U.S.C. 309(j)(8)(G)), 6403 (codified at 47 U.S.C. 1452), 126 Stat. 156 (2012) (Spectrum Act).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information. impact(s).

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: By Public Notice released January 10, 2017, The Incentive Auction Task Force and Media Bureau Release Transition Progress Report Form and Filing Requirements for Stations Eligible for Reimbursement from the TV Broadcast Relocation Fund and Seek Comment on the Filing of the Report by Non-Reimbursable Stations, MB Docket No. 16-306, Public Notice, 32 FCC Rcd 256 (IATF/Med. Bur. 2017). The Incentive Auction Task Force and Media Bureau described the information that must be provided in the adopted FCC Form 2100, Schedule 387 (Transition Progress Report Form) to be filed by Reimbursable Stations and when and how the Transition Progress Reports must be filed. We also proposed to require broadcast television stations

that are not eligible to receive reimbursement of associated expenses from the Reimbursement Fund (Non-Reimbursable Stations), but must transition to new channels as part of the Commission's channel reassignment plan, to file progress reports in the same manner and on the same schedule as Reimbursable Stations, and sought comment on that proposal. By Public Notice released May 18, 2017. The Incentive Auction Task Force and Media Bureau Adopt Filing Requirements for the Transition Progress Report Form by Stations That Are Not Eligible for Reimbursement from the TV Broadcast Relocation Fund, MB Docket No. 16–306, Public Notice, DA 17–484 (rel. May 18, 2017) (referred to collectively with Public Notice cited above as Transition Progress Report Public Notices). We concluded that Non-Reimbursable Stations will be required to file Transition Progress Reports following the filing procedures adopted for Reimbursable Stations.

The Commission is seeking a three-year extension for this information collection from the Office of Management and Budget (OMB) approval for FCC Form 2100, Schedule 387 (Transition Progress Report).

Federal Communications Commission

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2020–13898 Filed 6–26–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meetings

TIME AND DATE: 11:00 a.m. on Thursday, June 25, 2020.

PLACE: The meeting was held in the Board Room located on the Sixth Floor of the FDIC Building located at 550 17th Street NW, Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: In calling the meeting, the Board determined, on motion of Director Martin J. Gruenberg, seconded by Director Kathleen L. Kraninger (Director, Consumer Financial Protection Bureau), and concurred in by Director Brian P. Brooks (Acting Comptroller of the Currency), and Chairman Jelena McWilliams, that Corporation business required its consideration of the matters which were to be the subject of this meeting on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation;

and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

CONTACT PERSON FOR MORE INFORMATION:

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at 202–898–7043.

Dated at Washington, DC, on June 25, 2020.
Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2020–14055 Filed 6–25–20; 4:15 pm]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than July 14, 2020.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Nancy Kay Toppenberg, Newton, Iowa, together with Linda Louise Fleagle*

and Jerry Lee Fleagle, both of Coralville, Iowa; as a group acting in concert, to acquire voting shares of First State Bank Holding Company, and thereby indirectly acquire voting shares of First State Bank, both of Lynnvill, Iowa.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Mario Usera, Cari Usera, and Gabriella Usera, all of Liberty, Missouri; and Carmen Colford, Vermillion, South Dakota; to become members of the Usera Family Group, a group acting in concert, and retain voting shares of CCSB Financial Corp., and thereby indirectly retain voting shares of Clay County Savings Bank, both of Liberty, Missouri.*

Board of Governors of the Federal Reserve System, June 24, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–13961 Filed 6–26–20; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to implement the Pre-Hire Conflict of Interest Screening Form (FR 28c; OMB No. 7100–NEW).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files. These documents also are available on the Federal Reserve Board's public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears above.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are placed into OMB's public docket files.

Final Approval under OMB Delegated Authority of the Implementation of the Following Information Collection:

Report title: Pre-Hire Conflict of Interest Screening Form.

Agency form number: FR 28c.

OMB control number: 7100–NEW.

Frequency: As needed.

Respondents: Individuals who have been selected for an interview during the hiring process.

Estimated number of respondents: 2,300.

Estimated average hours per response: 0.5.

Estimated annual burden hours: 1,150.

General description of report: The FR 28c form will collect information from external applicants applying to the Board regarding certain financial interests and business relationships held by the applicant and by his/her immediate family members, as well as the external applicant's involvement with certain outside organizations, to determine whether a conflict of interest may exist, which could impact the applicant's ability to fulfill the responsibilities associated with the position for which they have applied.

Legal authorization and confidentiality: The collection of this information is authorized by section 10 of the Federal Reserve Act, 12 U.S.C. 244, which provides that the "employment, compensation, leave, and expenses" of Board employees "shall be governed solely by the provisions of this chapter and rules and regulations of the Board not inconsistent therewith." In addition, pursuant to regulations promulgated by the Office of Government Ethics (OGE) pursuant to 5 U.S.C. 7301, each executive agency's designated ethics officer is required to provide "advice and counseling to prospective . . . employees regarding government ethics laws and regulations" and to "maintain records of agency ethics program activities" (5 CFR 2638.104(c)(2) and (4)).

Providing the information collected on the FR 28c form is required in order

to obtain the benefit of Board employment.

Generally, information provided on the FR 28c form may be kept confidential from the public under exemption 6 of the Freedom of Information Act (FOIA), which protects information in "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy" (5 U.S.C. 552(b)(6)). In addition, financial information collected on the form (such as confidential details about the amount of shares an applicant, their spouse, or minor child owns in a bank) may be withheld under exemption 4 of the FOIA, which protects "financial information obtained from a person [that is] privileged and confidential" (5 U.S.C. 552(b)(4)).

Current actions: On January 16, 2020, the Board published a notice in the **Federal Register** (85 FR 2741) requesting public comment for 60 days on the implementation of the FR 28c. The comment period for this notice expired on March 16, 2020. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, June 23, 2020.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2020–13858 Filed 6–26–20; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, with revision, the Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies (FR 2100; OMB No. 7100–0368). The revisions are effective immediately.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghribi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW,

Washington, DC 20503, or by fax to (202) 395–6974.

A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files. These documents also are available on the Federal Reserve Board's public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears above.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are placed into OMB's public docket files.

Final Approval under OMB Delegated Authority of the Extension for Three Years, With Revision, of the Following Information Collection:

Report title: Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies (Policy Statement).

Agency form number: FR 2100.

OMB control number: 7100–0368.

Effective Date: Immediately.

Frequency: Annual.

Respondents: All financial institutions regulated by the Board.

Estimated number of respondents: 125.

Estimated average hours per response: Reporting: 7 hours; Disclosure: 1 hour.

Estimated annual burden hours: 1,000 hours.

General description of report: Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) requires the Office of the Comptroller of the Currency (OCC), Board, Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA), Bureau of Consumer Financial Protection (CFPB), and Securities and Exchange Commission (SEC) (the Agencies) each to establish an Office of Minority and Women Inclusion (OMWI) to be responsible for all matters of the Agency relating to diversity in management, employment, and business activities. Section 342 requires each OMWI director to develop standards for "assessing the diversity policies and practices of entities regulated by the

agency.” The Policy Statement, published jointly by the Agencies in June 2015, contains those standards.

Legal authorization and confidentiality: The information collections contained within the Policy Statement, as well as the self-assessment reporting template, are authorized by section 342 of the Dodd-Frank Act,¹ which requires the Board’s OMWI director to develop standards for assessing regulated entities’ diversity policies and practices. The information collections associated with the Policy Statement are voluntary, as is the use of the self-assessment reporting template.

The Transparency Standard, and a portion of the Self-Assessment Standard, call for regulated entities to provide information to the public, so confidentiality is not an issue with respect to those aspects of the Policy Statement. A regulated entity may provide self-assessment material to the Board (including through use of the reporting template) containing confidential commercial information that is protectable under exemption 4 of the Freedom of Information Act.² If a regulated entity submits confidential commercial information that is both customarily and actually treated as private by the entity, the entity should separately designate such information as “confidential commercial information,” as appropriate, and the Board will treat such designated information as confidential to the extent permitted by law, including the Freedom of Information Act.³ As noted in the Policy Statement, an entity’s primary federal regulator may share information obtained from regulated entities with other Agencies, but the Agencies will only publish information disclosed to them in a form that does not identify a particular entity or individual or disclose confidential business information.

Current actions: On March 2, 2020, the Board published a notice in the **Federal Register** (85 FR 12296) requesting comment for 60 days on the proposal to extend, with revision, the Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies. The Board has revised the language in the “Use of Information” section of the reporting template regarding the designation of information as confidential by respondents. The Board also eliminated the “Yes/No” check boxes under Section 5 (“Institution’s Self-Assessment”) of the reporting

template and asks for a more detailed description of the institution’s practices during the annual self-assessment period. Additionally, the FR 2100 includes a disclosure provision for respondent institutions. The Board has revised the FR 2100 information collection to account for this disclosure provision. The comment period expired on May 1, 2020. The Board did not receive any comments. The revisions will be implemented as proposed.

Board of Governors of the Federal Reserve System, June 23, 2020.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2020–13859 Filed 6–26–20; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Compensation and Salary Surveys (FR 29a and FR 29b; OMB No. 7100–0290).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrahi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB’s public docket files. These documents also are available on the Federal Reserve Board’s public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears above.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-

approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are placed into OMB’s public docket files.

Final Approval under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection:

Report title: Compensation and Salary Surveys.

Agency form number: FR 29a, FR 29b.

OMB control number: 7100–0290.

Frequency: FR 29a, annually; FR 29b, on occasion.

Respondents: Employers considered competitors of the Board.

Estimated number of respondents: FR 29a, 35; FR 29b, 10.

Estimated average hours per response: FR 29a, 6 hours; FR 29b, 1 hour.

Estimated annual burden hours: FR 29a, 210 hours; FR 29b, 50 hours.

General description of report: The FR 29a and FR 29b collect information on salaries, employee compensation policies, and other employee programs from employers that are considered competitors of the Board. The data from the surveys primarily are used to determine the appropriate salary structure and salary adjustments for Board employees. The Board, along with other Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) agencies,¹ conduct the FR 29a survey jointly. The FR 29b is collected by the Board only.

Legal authorization and confidentiality: The FR 29 is authorized by sections 10(4) and 11(1) of the Federal Reserve Act,² which authorizes the Board to determine employees’ compensation. Survey submissions are voluntary. The FR 29a survey is conducted by an outside consultant that only submits to the Board a report of aggregate data. Because the Board does not collect or have access to the individual respondent data, no confidentiality issue arises with respect to the individual responses to the FR 29a. Individual responses to the FR 29b may be kept confidential on a case-by-case basis. The Board will consider whether information collected through these surveys may be kept confidential

¹ For purposes of this proposal, the FIRREA agencies consist of the Federal Reserve Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Commodity Futures Trading Commission, the Farm Credit Administration, and the Securities and Exchange Commission.

² 12 U.S.C. 244 and 248(l).

¹ 12 U.S.C. 5452.

² 5 U.S.C. 552(b)(4).

³ 5 U.S.C. 552.

under exemption 4 of the Freedom of Information Act ("FOIA"), which protects privileged or confidential commercial or financial information,³ exemption 6, which protects information "the disclosure of which would constitute a clearly unwarranted invasion of personal privacy,"⁴ or any other applicable FOIA exemption.

Current actions: On March 13, 2020, the Board published a notice in the **Federal Register** (85 FR 14679) requesting public comment for 60 days on the extension, without revision, of the Compensation and Salary Surveys. The comment period for this notice expired on May 12, 2020. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, June 23, 2020.

Michele Taylor Fennell,

Assistant Secretary of the Board

[FR Doc. 2020-13857 Filed 6-26-20; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision the Annual Daylight Overdraft Capital Report for U.S. Branches and Agencies of Foreign Banks (FR 2225; OMB No. 7100-0216).

DATES: Comments must be submitted on or before August 28, 2020.

ADDRESSES: You may submit comments, identified by *FR 2225*, by any of the following methods:

- **Agency website:** <https://www.federalreserve.gov/>. Follow the instructions for submitting comments at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx>.

- **Email:** regs.comments@federalreserve.gov. Include the OMB number in the subject line of the message.

- **FAX:** (202) 452-3819 or (202) 452-3102.

- **Mail:** Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at <https://www.federalreserve.gov/>

www.federalreserve.gov/apps/foia/proposedregs.aspx as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452-3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghribi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452-3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under

authority delegated by the OMB under the PRA. Comments are invited on the following:

- a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

- b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

- c. Ways to enhance the quality, utility, and clarity of the information to be collected;

- d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

- e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority to Extend for Three Years, With Revision, the Following Information Collection:

Report title: Annual Daylight Overdraft Capital Report for U.S. Branches and Agencies of Foreign Banks.

Agency form number: FR 2225.

OMB control number: 7100-0216.

Frequency: Annually.

Respondents: Foreign banking organizations (FBOs).

Estimated number of respondents: 51.

Estimated average hours per response: 1.

Estimated annual burden hours: 51.

General description of report: The FR 2225 is required for FBOs that wish to and are eligible to establish a non-zero net debit cap for their U.S. branches and agencies under the Federal Reserve Policy on Payment System Risk (PSR policy). The FR 2225 reporting form collects information needed to identify the respondent and its fiscal year-end, and collects four items to determine its year-end capital and assets for purposes of daylight overdraft monitoring. The four items, converted into U.S. dollars collected for the capital and assets determination are: Worldwide capital for the reporting FBO (item 1); an adjustment to avoid double counting of capital used by any direct or indirect subsidiary of the FBO that also has access to Fedwire and has its own net debit cap (item 2); the FBO's total

³ 5 U.S.C. 552(b)(4).

⁴ 5 U.S.C. 552(b)(6).

daylight overdraft capital base for the U.S. branch and agency family (item 3), which is used to calculate the net debit cap; and the reporting FBO's total worldwide assets (item 4). The Reserve Banks use items 1 and 2 as supplemental information to clarify the data reported in item 3. Federal Reserve staff use the assets data reported in item 4 for analytical purposes.

Proposed revisions: The Board proposes to revise the instructions to remove references to an FBO's strength of support assessment (SOSA) ranking and its status as a financial holding company (FHC). These changes are related to the revisions to the PSR policy, which the Board implemented on April 1, 2019, and which will take effect on October 1, 2020. The SOSA ranking and FHC status are no longer used for determining an FBO's eligibility for a positive net debit cap, the size of its net debit cap, and its eligibility to request a streamlined procedure to obtain maximum daylight overdraft capacity. In addition, the Board proposes to revise the confidentiality section of the instructions to clarify how an FBO may request its information be treated as confidential, if the FBO believes the information submitted on its FR 2225 report is exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552(b). The Board also is changing language in the FR 2225 to clarify where the confidentiality instructions can be found, and updating the legal statutes listed on the face of the FR 2225.

Legal authorization and confidentiality: This information collection is authorized pursuant to section 7(a) of the International Banking Act, 12 U.S.C. 3105(a), which establishes reserve requirements for U.S. branches and agencies of foreign banks, and pursuant to section 13(14) of the Federal Reserve Act (FRA), 12 U.S.C. 347d, which provides that "each Federal Reserve bank may receive

deposits from, discount paper endorsed by, and make advances to any branch or agency of a foreign bank in the same manner and to the same extent that it may exercise such powers with respect to a member bank if such branch or agency is maintaining reserves with such Reserve bank pursuant to section 7 of the International Banking Act of 1978." In addition, sections 11(i), 16, and 19(f) of the FRA, 12 U.S.C. 248(i), 248–1, and 464, continue to provide authority for the collection of the FR 2225. The obligation to respond is required to obtain a benefit (*i.e.*, this information is required in order for an FBO to establish a non-zero net debit cap so that its U.S. branches or agencies may be eligible for intraday credit).

Consultation outside the agency: There has been no consultation outside the Federal Reserve System.

Board of Governors of the Federal Reserve System, June 23, 2020.

Michele Taylor Fennell,
Assistant Secretary of the Board.

[FR Doc. 2020–13855 Filed 6–26–20; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Office of Refugee Resettlement Annual Survey of Refugees (OMB #0907–0033)

AGENCY: Office of Refugee Resettlement, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) within the U.S. Department of Health and Human Services (HHS) seeks an update to the existing data collection for the Annual Survey of Refugees. The Annual Survey of Refugees is a yearly sample survey of

refugee households entering the U.S. in the previous five fiscal years. The requested update is based upon results of a multi-year effort in instrument redesign and field testing. ACF estimates the proposed changes will increase response burden from 30 to 48 minutes per respondent.

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 within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

SUPPLEMENTARY INFORMATION:

Description: Data from the Annual Survey of Refugees are used to meet the Office of Refugee Resettlement's (ORR's) Congressional reporting requirements, as set forth in the Refugee Act of 1980 (Section 413(a) of the Immigration and Nationality Act). ORR makes survey findings available to the general public and uses findings for the purposes of program planning, policy-making, and budgeting. The requested update reflects changes to the survey instrument to: enhance ORR's understanding of refugees' resettlement experiences; streamline the collection of household-level information; and improve data reliability and validity.

Respondents: The Annual Survey of Refugees secures a nationally representative sample of refugee households arriving in the United States in the previous five fiscal years.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Introduction Letter and Postcard	4,500	1,500	1	.05	75
ORR–9 Annual Survey of Refugees	4,500	1,500	1	.80	1,200

Estimated Total Annual Burden Hours: 1,275.

(Authority: Sec. 413.[8 U.S.C. 1523])

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2020–13941 Filed 6–26–20; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; National Survey of Child and Adolescent Well-Being-Third Cohort (NSCAW III) (OMB #0970–0202)

AGENCY: Office of Planning, Research, and Evaluation (OPRE); Administration for Children and Families; Department of Health and Human Services (HHS).

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF), within the U.S. Department of Health and Human Services (HHS), is proposing to collect data on the child welfare workforce as part of the third cohort of children and families for the National Survey of Child and Adolescent Well-Being (NSCAW III). Previous and current data

collections for NSCAW have been approved by OMB under OMB #0970–0202. This request is for additional data collection.

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, Attn: Desk Officer for the Administration for Children and Families.

Copies of the proposed collection may be obtained by emailing 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: NSCAW is the only source of nationally representative, longitudinal, firsthand information about the functioning and well-being, service needs, and service utilization of children and families who come to the attention of the child welfare system.

OMB previously approved data collection under OMB Control Number 0970–0202 for NSCAW. The Phase I submission, approved November 2016, included recruitment and sampling process data collection activities. The Phase II submission, approved July 2017, included baseline and 18-month follow-up data collection activities.

The proposed new data collection activities will provide national representative data on the characteristics and activities of the workforce in child welfare agencies participating in NSCAW III. Surveys will collect information on workforce characteristics and competencies, training and professional development opportunities, and organizational and agency factors. The surveys will also collect information about the potential impacts of the COVID–19 pandemic on child welfare agency staff and practice.

Respondents: The respondents are agency directors, supervisors, and caseworkers. All surveys will be conducted in-person.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Agency Director Survey	56	19	1	.58	11
Supervisor Survey	130	43	1	.58	25
Caseworker Survey	390	130	1	.83	108

Estimated Total Annual Burden Hours: 144.

Authority: 42 U.S.C. 628b; Continuing Appropriations Act of 2020.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2020–13856 Filed 6–26–20; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Cost Study of Trauma-Specific Evidence-Based Programs Used in the Regional Partnership Grants Program (New Collection)

AGENCY: Children's Bureau, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Children's Bureau (CB), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is proposing to collect data for a new descriptive study—the Cost Study of

Trauma-Specific Evidence-Based Programs used in the Regional Partnership Grants (RPG) Program.

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, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing infocollection@acf.hhs.gov. Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation (OPRE), 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. All requests,

emailed or written, should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: Since 2006, CB has awarded multiple rounds of competitive grants to state and local agencies and service providers under the RPG Program. Grants are awarded to organizations such as child welfare agencies, substance abuse treatment providers, or family court systems to develop interagency collaborations and provide services designed to increase well-being, improve permanency, and enhance the safety of children who are in or at risk of being placed in out-of-home care as a result of a parent's or caretaker's substance abuse. Thirty-five grantees are participating in the ongoing RPG national cross-site evaluation, which examines implementation, partnerships, outcomes, and impacts.

All grantees collect data on a uniform set of performance measures and report them to CB on a semi-annual basis through a web-based system. These ongoing data collection activities are approved under OMB #0970-0527. All grantees are also required to use a portion of their funding to conduct their own "local" program impact evaluation.

This proposed cost study adds a new and unique contribution to CB's portfolio of evaluation activities. Although the RPG cross-site evaluation will provide evidence for the effectiveness of some interventions to address the emotional effects of trauma, more information is needed about the cost of implementing these Evidence-Based Programs (EBPs).

The cost study has the key objective to determine the cost of implementing three select Trauma-Specific EBPs:

Parent-Child Interaction Therapy, Seeking Safety, and Trauma-Focused Cognitive Behavioral Therapy. To carry out this objective, the study team will collect detailed cost information from nine RPG round four and five grantees who are implementing these selected EBPs. For each grantee, the study team will administer two data collection instruments: (1) A Cost Workbook used to collect comprehensive information on the cost of implementing each select program (Instrument #1), and (2) a Staff Survey and Time Log used to collect information on how program staff allocate their time (Instrument #2).

Respondents: Grantee staff.

Annual Burden Estimates

Data collection will take place within a 1-year period.

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total/annual burden hours
Cost Workbook	9	1	8	72
Staff Survey and Time Log	90	1	3.6	330

Estimated Total Annual Burden Hours: 402.

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: The Child and Family Services Improvement and Innovation Act (Pub. L. 112-34).

Mary B. Jones,
ACF/OPRE Certifying Officer.

[FR Doc. 2020-13935 Filed 6-26-20; 8:45 am]

BILLING CODE 4184-29-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Survey of the National Survey of Child and Adolescent Well-Being (NSCAW) Adopted Youth, Young Adults, and Adoptive Parents (New Collection)

AGENCY: Office of Planning, Research and Evaluation (OPRE); Administration for Children and Families; Department of Health and Human Services (HHS).

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) at the U.S. Department of Health and Human Services (HHS) seeks approval for a one-time study to examine familial outcomes 8 or more years after a child's adoption from the child welfare system. The primary objective of this study is to estimate the prevalence of instability events that occur in families who have adopted children who have exited the foster care system. The second objective is to understand risk and protective factors associated with post adoption instability.

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 within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

SUPPLEMENTARY INFORMATION:

Description: The proposed study would conduct web or telephone surveys with adopted youth, young adults, and adults as well as adoptive parents who were participants in the first or second cohort of NSCAW (NSCAW I, II; OMB #0970-0202). The surveys are designed to collect information about instability events (such as foster care re-entry or running away that occurred after a child's adoption) as well as family functioning, perceptions of the adoption relationship, and services and support received after adoption.

Respondents: Adopted youth, young adults, adults, and their associated adoptive parents who participated in NSCAW I or II.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Survey of NSCAW Adopted Youth, Young Adults, and Adults	588	1	.5	294
Survey of NSCAW Adoptive Parents	554	1	.5	277

Estimated Total Annual Burden Hours: 571.

Authority: Child Abuse Prevention and Treatment and Adoption Reform Act of 1978.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2020–13939 Filed 6–26–20; 8:45 am]

BILLING CODE 4184–25–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Notice of Intent To Award a Sole Source Supplement to the Christopher and Dana Reeve Foundation

ACTION: Notice of Intent to award a sole source supplement.

SUMMARY: The Administration for Community Living (ACL) is announcing the award of single-source supplement for the National Paralysis Resource Center (PRC) that was included in the 2020 Congressional budget appropriations.

SUPPLEMENTARY INFORMATION: The National Paralysis Resource Center is operated by the Christopher and Dana Reeve Foundation, which offers important programmatic opportunities for persons with disabilities and older adults. The PRC provides comprehensive information for people living with spinal cord injury, paralysis, and mobility-related disabilities and their families. Resources include information and referral by phone and email in multiple languages; a peer and family support mentoring program; a military and veterans program; multicultural outreach services; multiple quality of life grants; and a national website. The administrative supplement for FY2020 will be in the amount of \$2,188,339, bring the total award for FY20 to \$8,700,000.

Program Name: National Paralysis Resource Center.

Recipient: Christopher and Dana Reeve Foundation.

Period of Performance: The supplement award will be issued for the third year of a three year project a

project period, July 1, 2020 through June 30, 2021.

Award Amount: \$2,188,339.

Award Type: Cooperative Agreement.

Statutory Authority: This program is authorized under Section 317 of the Public Health Service Act (42 U.S.C. 247(b–4)).

CFDA Number: 93.325 Discretionary Projects.

The purpose of the supplemental funding is to support the expansion of the National Paralysis Resource Center to improve the health and quality of life of individuals living with paralysis and their families by raising awareness of and facilitating access to a broad range of services relevant to individuals with paralysis. With the additional funding, the PRC will work to expand the National Resource and Information Center; increase the health and quality of life of Americans with disabilities living with paralysis; increase support and resources to people with paralysis, their families and caregivers; expand collaboration with federal agencies and other national organizations that have a vested interest in the paralysis community; and strengthen performance measures.

Dated: June 17, 2020.

Mary Lazare,

*Principal Deputy Administrator,
Administration for Community Living.*

[FR Doc. 2020–13577 Filed 6–26–20; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–0914]

Review and Update of Device Establishment Inspection Processes and Standards; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance entitled “Review and Update

of Device Establishment Inspection Processes and Standards.” FDA is issuing this guidance to comply with changes to the Federal Food, Drug, and Cosmetic Act (FD&C Act) as amended by the FDA Reauthorization Act of 2017 (FDARA), which requires that FDA review and update, as needed, the processes and standards applicable to inspections (other than for-cause) of domestic and foreign medical device establishments in place as of August 18, 2017. This guidance describes how FDA will implement uniform inspection processes and standards. The guidance also describes standardized methods of communication during the inspection process and identifies practices for investigators and device establishments to facilitate the continuity of inspections of such establishments.

DATES: The announcement of the guidance is published in the **Federal Register** on June 29, 2020.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the

manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- **MAIL/HAND DELIVERY/COURIER (FOR WRITTEN/PAPER SUBMISSIONS):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA-2019-D-0914 for “Review and Update of Device Establishment Inspection Processes and Standards.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments

received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for a single hard copy of the guidance entitled “Review and Update of Device Establishment Inspection Processes and Standards” to the Office of Strategic Planning and Operational Policy, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Element Building, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT:

Tiffany Kelley, Office of Regulatory Affairs, Division of Operational Policy, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993-0002, 301-348-1970, Tiffany.Kelley@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is issuing this guidance document to comply with section 702(b) of FDARA (Pub. L. 115-52). Section 702(b) of FDARA directs FDA to issue guidance that specifies how FDA will implement the processes and standards, applicable to inspections of domestic and foreign device establishments, described in section 704(h)(1)(A) through (D) of the FD&C Act (21 U.S.C. 374(h)(1)(A) through (D)), as added by section 702(a) of FDARA. FDARA 702(b) also requires the guidance to provide for standardized methods of communication when communication is required under section 704(h)(1) of the FD&C Act, establish a standard timeframe for inspections, and identify practices for investigators and device establishments to facilitate the continuity of inspections of such establishments.

In the **Federal Register** of March 29, 2019 (84 FR 11983), FDA announced the availability of the draft guidance of the same title. FDA received several comments on the draft guidance and those comments were considered as the guidance was finalized. The guidance announced in this notice finalizes the draft guidance dated March 29, 2019.

FDA is issuing this guidance consistent with FDA’s good guidance

practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This guidance refers to currently approved FDA collections of information. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521). The collections of information in 21 CFR part 803 have been approved under OMB control number 0910-0437. The collections of information in 21 CFR part 820 have been approved under OMB control number 0910-0073.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the internet at either <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/search-general-and-cross-cutting-topics-guidance-documents> or <https://www.regulations.gov>. Persons unable to download an electronic copy of “Review and Update of Device Establishment Inspection Processes and Standards; Guidance for Industry” may send an email request to ORAPolicyStaffs@fda.hhs.gov to receive an electronic copy of the document.

Dated: June 24, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020-13972 Filed 6-26-20; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2020-N-1046]

Use of Codeine-Containing Analgesics in Children Under 12 Years of Age Subsequent to CYP2D6 Genetic Testing; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing the establishment of a docket to solicit public comment on

specific questions pertaining to the use of codeine for analgesia in children under 12 years of age, and the use of cytochrome P450 2D6 (CYP2D6) testing in children under 12 years of age prior to treatment with codeine-containing analgesics. These questions are posed in section II.

DATES: Submit either electronic or written comments by August 28, 2020.

ADDRESSES: You may submit comments as follows:

Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before August 28, 2020. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of August 28, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management

Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2020-N-1046 for "Use of Codeine-Containing Analgesics in Children Under 12 Years of Age Subsequent to CYP2D6 Genetic Testing." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

LCDR Jessica Voqui, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 3121, 301-796-2280.

SUPPLEMENTARY INFORMATION:

I. Background

Codeine-containing prescription analgesic products approved by FDA are currently contraindicated in children under 12 years of age.¹ The Agency is considering a request for regulatory action to amend this contraindication to provide for use in children under 12 years of age who are shown to be cytochrome P450 isoenzyme 2D6 (CYP2D6) normal metabolizers (also known as "extensive metabolizers") or CYP2D6 intermediate metabolizers based on pharmacogenetic testing that includes CYP2D6 copy number or gene duplication detection. As discussed in section I.C., below, concerns have been raised in a citizen petition that children under 12 years of age in acute pain may not be able to access appropriate opioid analgesic drugs, and FDA is interested in understanding the scope and impact of any potential access issues. To properly assess the appropriateness and potential impact of making this amendment to the contraindication, the Agency seeks input from the healthcare community and the public on the following issues: (1) Pain management in children under 12 years of age; (2) availability and clinical utility of CYP2D6 genotyping tests; and (3) e-prescribing availability as a potential mitigation approach for opioid analgesic access in urgent situations.

Analgesic products with codeine as an active ingredient are opioids that are generally indicated for the relief of mild to moderate pain where the use of an opioid analgesic is appropriate and for which alternative treatments are inadequate. Codeine-containing products indicated for analgesia are marketed either as single ingredient codeine (a Controlled Substances Act (CSA) Schedule II drug) or in combination with other non-narcotic active ingredients, such as acetaminophen (the combination being a CSA Schedule III drug); most of the use is with the combination products.

¹ See April 20, 2017, Drug Safety Communication at <https://www.fda.gov/drugs/drug-safety-and-availability/fda-drug-safety-communication-fda-restricts-use-prescription-codeine-pain-and-cough-medicines-and>. Codeine remains available through the over-the-counter (OTC) Drug Monograph for Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products (21 CFR 341.14, 21 CFR 341.74, 21 CFR 341.90) in combination with other medications for cough and cold symptoms.

There are also codeine-containing products indicated for the relief of cough, that contain a combination of codeine with other active ingredients in prescription products for cough and symptoms associated with upper respiratory allergies or common cold; however, the pediatric cough/cold indications were removed from prescription codeine cough/cold products in January 2018.² Codeine is partially metabolized to morphine, its most potent analgesic metabolite, through the CYP2D6 pathway. CYP2D6 is a polymorphic enzyme, leading to a high degree of variability for metabolism of codeine because of underlying genetic differences in CYP2D6 activity. Because of this variability, depending on CYP2D6 activity, patients may be at risk for therapeutic failure (“poor metabolizers”) or at risk for opioid-related toxicity (“ultra-rapid metabolizers”).

A. Regulatory History: 2007–2013

Given the variability in the metabolism of codeine, the safety of codeine use in children has been a concern, particularly the risk of life-threatening or fatal respiratory depression. Over the past several years, FDA has updated the labeling for codeine-containing prescription products regarding the risk of respiratory depression. In 2007, prescription codeine product labeling was updated with information regarding polymorphic metabolism and the risk of respiratory depression, specifically in breastfed infants of mothers who used codeine. In August 2012, FDA issued a Drug Safety Communication (DSC) about reports of death and respiratory depression in pediatric patients, primarily with use of codeine following tonsillectomy and/or adenoidectomy. In February 2013, after completing a review of the available safety data for codeine in the FDA Adverse Event Reporting System (FAERS) and the medical literature, FDA required a Boxed Warning and Contraindication regarding the use of codeine-containing prescription analgesics following tonsillectomy and/or adenoidectomy, highlighting the risk to those children who are ultra-rapid metabolizers of codeine due to CYP2D6 polymorphism. These children may be particularly sensitive to the respiratory depressant effects of codeine because ultra-rapid metabolizers metabolize standard doses

of codeine in the liver to high circulating levels of morphine (codeine’s active metabolite). As part of the review of this issue, in addition to codeine, FDA evaluated the FDA Adverse Event Reporting System (FAERS) and the medical literature for cases of death or overdose in children related to the therapeutic use of immediate-release morphine, oxycodone, or hydrocodone. This search did not reveal clear cases of unexplainable or unconfounded death or opioid toxicity.

In June 2013, following a review of the relevant data, the European Medicines Agency (EMA) made the determination that “codeine-containing products indicated in the management of pain should only be indicated in children above 12 years of age and contraindicated in paediatric patients below 18 years of age undergoing tonsillectomy and/or adenoidectomy for obstructive sleep apnoea syndrome as well as in women during breast-feeding and in patients known to be CYP2D6 ultra-rapid metabolisers” (<https://www.ema.europa.eu/en/medicines/human/referrals/codeine-containing-medicines>).

B. Regulatory History: 2015–2017

In April 2015, the EMA completed a review of the use of codeine for cough and cold indications. The EMA contraindicated the use of codeine-containing products in children under 12 years of age for cough and cold and recommended that codeine-containing cough and cold products not be used in children and adolescents ages 12 to 18 years of age who have breathing problems (see “Codeine-containing medicinal products for the treatment of cough or cold in paediatric patients: Codeine not to be used in children below 12 years for cough and cold,” available at <https://www.ema.europa.eu/en/medicines/human/referrals/codeine-containing-medicinal-products-treatment-cough-cold-paediatric-patients>).

Subsequent to the release of the EMA recommendations about use of codeine-containing products in children for cough and cold indications, FDA initiated a safety review of available data regarding respiratory depression and death with codeine-containing product use for cough in children. In addition, FDA also re-evaluated available safety data regarding codeine use for analgesia in children. Because of the potential for shifting use to other opioids if the scope of the February 2013 contraindication for codeine use in children was expanded (*i.e.*, beyond pain management following

tonsillectomy and/or adenoidectomy), FDA also evaluated the safety of other opioid-containing potential treatments, including hydrocodone-containing cough and cold products, and tramadol products.

The Office of Surveillance and Epidemiology (OSE) within FDA’s Center for Drug Evaluation and Research (CDER) completed a Pediatric Postmarketing Epidemiological, Pharmacovigilance, and Drug Utilization Review on November 13, 2015. The review identified 64 cases in the FAERS database from 1965 to May 2015 of serious respiratory depression, including 24 deaths, in children 18 years of age and below receiving codeine-containing products. Most of the cases (50 out of 64), including fatal cases (21 out of 24), involved children under 12 years of age. Among the 48 cases that reported the reason for use, 34 reported pain management (17 were post-adenotonsillectomy), and 14 reported cough and cold management; 12 of 21 deaths in children under 12 years of age occurred when a codeine-containing product was used unrelated to pain post-adenotonsillectomy (cough and cold, n=7; general pain, n=2; other postoperative pain, n=2; sore/strep throat pain, n=1). Ten of 64 cases mentioned CYP2D6 genotype (7 were ultra-rapid metabolizers and 3 were normal metabolizers); the remaining 54 cases did not report CYP2D6 genotyping. Of the three cases that occurred in normal metabolizers, two involved 3-year-old twin brothers who received inadvertent overdoses of codeine for treatment of a cold (one resulted in death) and one involved a 3-year-old female who underwent tonsillectomy for obstructive sleep apnea. Other risk factors for codeine toxicity were noted in several cases such as obesity, obstructive sleep apnea, and overdose. OSE concluded that there is case report evidence of respiratory depression following codeine use for both pain and cough and cold treatment, particularly in pediatric patients under 12 years of age.

FDA held a joint meeting of the Pulmonary and Allergy Drugs and the Drug Safety and Risk Management Advisory Committees (PADAC/DSARM AC) on December 10, 2015 (80 FR 65770, October 27, 2015; minutes available at <https://www.fda.gov/media/95855/download>), to discuss the safety of codeine in pediatric patients. The issue of whether to add a recommendation to the labeling for prescription codeine drug products to genotype children prior to prescribing codeine was not raised as a specific topic of discussion for the AC. However,

² See January 11, 2018, Drug Safety Communication at <https://www.fda.gov/drugs/drug-safety-and-availability/fda-drug-safety-communication-fda-requires-labeling-changes-prescription-opioid-cough-and-cold>. But see fn. 1, *supra*.

FDA did explain why a recommendation for routine genotyping prior to receiving codeine was not added to product labeling at the time of the 2013 labeling change. First, normal metabolizers, in some cases, convert codeine to morphine at levels similar to ultra-rapid metabolizers. Second, the positive predictive value of the genotyping tests is low; thus, the number needed to be screened in order to prevent one adverse event is very high. Third, genotyping may be logistically difficult to implement because preoperative lab tests are not routinely obtained before adenotonsillectomy.

There was some discussion at the AC meeting about patient access issues. The patient representative, a mother of a child with sickle cell disease (SCD), expressed concerns focused on her daughter being able to get any opioid for use at home, rather than codeine/acetaminophen specifically. The overall theme of her comments was the difficulty with accessing opioid medications for control of SCD-related intermittent painful crises if a patient has to go to the emergency department for care and see physicians who are not familiar with the patient or the patient's family.

Another issue raised at the 2015 PADAC/DSaRM AC meeting was that the pediatric pain specialists on the committee contended that codeine/acetaminophen was not an appropriate drug for the treatment of painful sickle cell crises because the acetaminophen limits the dose of codeine that can be administered.

Two-thirds of the AC panel (20 out of 29) recommended that FDA contraindicate use of codeine-containing drug products for analgesia in children under 18, and the same number (20 out of 29) recommended that FDA contraindicate use of codeine-containing drug products for cough in children under 18.

Subsequent to internal discussions about the AC's recommendations, in April 2017, the Division of Anesthesia, Analgesia, and Addiction Products (DAAAP) and the Division of Pulmonary, Allergy, and Rheumatology Products (DPARP), both within CDER's Office of New Drugs, issued a Safety Labeling Change (SLC) notification letter related to the risk of life-threatening respiratory depression in children associated with the use of codeine-containing products and the risk of life-threatening respiratory depression in breastfed infants whose mothers were treated with codeine-containing products. Although the AC panel recommended contraindicating

codeine-containing drug products for children under 18, FDA chose to limit the contraindication to children under 12 years of age. The Agency also included in the SLC notification letter a requirement to add warning language regarding use of codeine-containing products in children ages 12 to 18 years of age who may have risk factors (e.g., obstructive sleep apnea, obesity, respiratory conditions) making them more susceptible to life-threatening or fatal respiratory depression with codeine.

These labeling changes were based upon the following considerations:

- Available data suggest that younger children (under 12 years of age) may be at highest risk of life-threatening or fatal respiratory depression.

- In addition to the risk factor of CYP2D6 ultra-rapid metabolizer status, some case reports suggested that other risk factors/conditions (e.g., obesity, obstructive sleep apnea, oropharyngeal swelling (post-tonsillectomy)) may make patients more susceptible to respiratory depression with codeine.

- There was some sentiment from the AC that prescribing of codeine-acetaminophen combination drug products, which are CSA Schedule III drugs, for pain in children resulted in opioids with lower abuse or diversion potential being in the household compared to Schedule II opioids being prescribed.

- Contraindication of codeine-containing drug products in children under 12 years of age would support continued availability of codeine-containing drug products for use in children ages 12 to 18 years of age who rely on codeine for pain management.

- A contraindication of codeine-containing drug products in children under 12 years of age is consistent with decisions made by other regulatory authorities, such as EMA and Health Canada (see <https://healthycanadians.gc.ca/recall-alert-rappel-avis/hc-sc/2013/33915a-eng.php>).

On August 29, 2017, the supplements submitted in response to the SLC notification letter were approved with updated labeling that included new language in the sections outlined above.

C. Citizen Petition Submission—December 2017

A citizen petition (Petition) dated December 14, 2017 (Docket no. FDA-2017-P-6918), was submitted to FDA by Kelly Caudle, MD, Director, Clinical Pharmacogenetics Implementation Consortium, St. Jude Children's Research Hospital, Memphis, TN, along with other clinical pharmacologists

(Petitioners) from around the country. The Petitioners requested that, with the exception of the post-adenotonsillectomy setting, the contraindication of codeine-containing analgesics be amended to provide for use of these products in children under 12 years of age who are known to be CYP2D6 normal metabolizers or intermediate metabolizers based on adequate pharmacogenetic testing (i.e., capable of measuring copy number or detect gene duplications). The Petitioners suggest that the current contraindication may cause children under 12 years of age with recurrent acute pain to have decreased access to opioid analgesics, which may result in more emergency department and urgent care visits. According to the Petition, such decreased access could occur because codeine/acetaminophen combination drug products are CSA Schedule III (able to be prescribed by telephone) whereas other opioid analgesics that would be suitable to treat a patient's pain are Schedule II and cannot be prescribed by telephone.

In FDA's view, if Petitioners' proposed labeling were adopted, a CYP2D6 genotype/phenotype determination would be essential for the safe and effective use of codeine drug products. Thus, under the Agency's authorities governing prescription drug labeling, the approved labeling of codeine-containing analgesics would also need to specify that, with respect to use in children under 12 years of age, the products are intended for use only subsequent to the necessary genotype/phenotype determination using an appropriate, FDA-authorized companion diagnostic device.³

FDA is aware of several available CYP2D6 genotype tests, each of which assess different alleles of CYP2D6 and which may not uniformly assess gene copy number. FDA is also aware that these tests have been shown to vary in performance with respect to identifying the range of genotype combinations. For example, most CYP2D6 tests, the wild type (referred to as “*1”) is typically a default result, i.e., no variant is detected and therefore the allele is assigned as the wild type (*1). FDA is concerned that, if a test does not have the ability to detect rare genotype variants, then patients who have these rare variants would be called wild type, and the wrong genotype result (potentially

³ For more information about relevant law and policy regarding companion diagnostics and the corresponding therapeutic products, see FDA's guidance titled, *In Vitro Companion Diagnostic Devices* (available at <https://www.fda.gov/media/81309/download>).

normal metabolizer) could be given for those patients.

Based on prescription dispensing data obtained from a proprietary drug utilization database available to FDA, the Agency understands that the number of patients ages 0 to 11 who were dispensed codeine-containing analgesic products decreased from an estimated 735,000 patients in 2013 to 230,000 patients in 2017. Following the addition of the contraindication of codeine-containing drug products in children under 12 years of age to the codeine product labeling in August 2017, FDA has seen the prescription use of codeine decline further to 84,000 patients ages 0 to less than 12 years of age in 2018.⁴

II. Additional Issues for Consideration and Request for Information

FDA is soliciting information and comment from stakeholders regarding the issues described in this document. In addition to any other aspects of these issues that stakeholders may care to comment upon, FDA is interested in answers to the following questions in particular:

Topic 1: Pain Management in Children Under 12 Years of Age (for Prescribers and Other Stakeholders, as Appropriate)

1. What factors do you consider in choosing to prescribe an opioid analgesic for children under 12 years of age who require treatment for recurrent episodes of acute pain (e.g., severity of pain, lack of response to other analgesics, or the specific disease, such as children with sickle cell disease-related pain crises)?

2. Which pediatric populations, other than children with sickle cell disease, typically use an opioid analgesic for recurrent episodes of acute pain?

3. What role, if any, do you see for codeine/acetaminophen combination drug products in the treatment of children under 12 years of age with recurrent episodes of acute pain?

4. What is your institution/department/clinical practice's recommended approach (or specific formulary options) for selecting an opioid analgesic for a child under 12 years of age? Was your institution/department/clinical practice's current approach modified following FDA's August 2017 codeine labeling revision that contraindicated codeine-containing drug products in children under 12 years of age? If there is not a recommended approach, what opioid

analgesics are typically prescribed in your practice to patients under 12 years of age?

5. In your view/experience, is the contraindication for use of codeine/acetaminophen combination drug products in children under 12 years of age hampering optimal patient care?

6. What are the issues you have faced regarding urgent access to opioid analgesics (e.g., after hours, on weekends, and holidays) for a child under 12 years of age with recurrent episodes of acute pain requiring an opioid analgesic?

a. For clinicians: If you have had to face these issues, how do they impact prescribing decisions? For example, would you consider giving a hard copy prescription for a small amount of opioid analgesic to be used in urgent or after-hours situations so the patient can avoid making a visit for urgent/emergency care?

b. For caregivers/patient advocates: How have you handled these issues?

Topic 2: CYP2D6 Genotyping Tests (for Prescribers and Technical Experts)

1. Would amending the contraindication to provide for CYP2D6 genotyping for children under 12 years of age prior to prescription of codeine-containing drug products change your clinical practice?

2. Have you utilized a CYP2D6 genotyping test when determining which opioid analgesic to select for a child under 12 years of age who has recurrent acute pain severe enough to warrant treatment with an opioid analgesic? Describe why or why not.

3. Describe your experience with interpreting CYP2D6 genotyping test results and using those results to make drug prescribing decisions.

4. For a CYP2D6 genotyping test to appropriately identify patients who can safely receive a codeine-containing drug product, what is the minimum genotyping accuracy and minimum acceptable coverage of the currently known genotypes that typically result in a poor metabolizer or ultra-rapid metabolizer phenotype?

5. Regarding detection of ultra-rapid metabolizers, what is the type of test output that would be needed for copy number? Is a result of "duplication present" (i.e., more than one copy) sufficient, or is specific quantitation of the number of copies needed?

Topic 3: E-Prescribing Availability (for Prescribers)

1. Is e-prescribing available in your institution/department/clinical practice?

2. What is your practice regarding e-prescribing of Schedule II opioids? Are there any limitations in your institution/department/clinical practice for e-prescribing of Schedule II opioids?

3. Would you e-prescribe a Schedule II opioid based on a telephone discussion with a child's caregiver? Would you e-prescribe any opioid (including those in Schedule III and Schedule IV) based on a telephone discussion with a child's caregiver? Describe why or why not.

4. If you do not have e-prescribing available, how does that impact your ability to prescribe Schedule II opioids for children under 12 years of age, particularly with recurrent acute pain episodes?

Dated: June 24, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020-13974 Filed 6-26-20; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Information Technology Advisory Committee 2020 Schedule—Revised; Meeting

AGENCY: Office of the National Coordinator for Health Information Technology (ONC), HHS.

ACTION: Notice of meeting.

SUMMARY: The Health Information Technology Advisory Committee (HITAC) was established in accordance with section 4003(e) of the 21st Century Cures Act and the Federal Advisory Committee Act. The HITAC, among other things, identifies priorities for standards adoption and makes recommendations to the National Coordinator for Health Information Technology (National Coordinator). The HITAC will hold public meetings throughout 2020. See list of public meetings below.

FOR FURTHER INFORMATION CONTACT: Lauren Richie, Designated Federal Officer, at Lauren.Richie@hhs.gov, (202) 205-7674.

SUPPLEMENTARY INFORMATION: Section 4003(e) of the 21st Century Cures Act (Pub. L. 114-255) establishes the Health Information Technology Advisory Committee (referred to as the "HITAC"). The HITAC will be governed by the provisions of the Federal Advisory Committee Act (FACA) (Pub. L. 92-463), as amended, (5 U.S.C. App.), which sets forth standards for the formation and use of federal advisory committees.

⁴ Source: IQVIA Total Patient Tracker™, 2013–2018. Data extracted May 2018 and June 2019.

Composition

The HITAC is comprised of at least 25 members, of which:

- No fewer than 2 members are advocates for patients or consumers of health information technology;
- 3 members are appointed by the HHS Secretary
 - 1 of whom shall be appointed to represent the Department of Health and Human Services and
 - 1 of whom shall be a public health official;
- 2 members are appointed by the majority leader of the Senate;
- 2 members are appointed by the minority leader of the Senate;
- 2 members are appointed by the Speaker of the House of Representatives;
- 2 members are appointed by the minority leader of the House of Representatives; and
- Other members are appointed by the Comptroller General of the United States.

Members will serve for one-, two-, or three-year terms. All members may be reappointed for a subsequent three-year term. Each member is limited to two three-year terms, not to exceed six years of service. After establishment, members shall be appointed for a three-year term. Members serve without pay, but will be provided per-diem and travel costs for committee services.

Recommendations

The HITAC recommendations to the National Coordinator are publicly available at <https://www.healthit.gov/topic/federal-advisory-committees/recommendations-national-coordinator-health-it>.

Public Meetings

The revised schedule of meetings to be held in 2020 is as follows:

- January 15, 2020 from approximately 9:30 a.m. to 2:30 p.m./ Eastern Time at the Washington Plaza Hotel, 10 Thomas Circle NW, Washington, DC 20005
- February 19, 2020 from approximately 9:30 a.m. to 2:30 p.m./ Eastern Time (virtual meeting)
- March 18, 2020 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)
- March 26, 2020 from approximately 10:30 a.m. to 1:30 p.m./Eastern Time (virtual meeting)
- April 15, 2020 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)
- May 20, 2020 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)

• (June 17, 2020 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)

- September 9, 2020 from approximately 9:30 a.m. to 2:30 p.m./ Eastern Time (virtual meeting)
- October 21, 2020 from approximately 9:30 a.m. to 2:30 p.m./ Eastern Time (virtual meeting)
- November 10, 2020 from approximately 9:30 a.m. to 2:30 p.m./ Eastern Time (virtual meeting)

All meetings are open to the public. Additional meetings may be scheduled as needed. For web conference instructions and the most up-to-date information, please visit the HITAC calendar on the ONC website, <https://www.healthit.gov/topic/federal-advisory-committees/hitac-calendar>.

Contact Person for Meetings: Lauren Richie, lauren.richie@hhs.gov. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Please email Lauren Richie for the most current information about meetings.

Agenda: As outlined in the 21st Century Cures Act, the HITAC will develop and submit recommendations to the National Coordinator on the topics of interoperability, privacy and security, and patient access. In addition, the committee will also address any administrative matters and hear periodic reports from ONC. ONC intends to make background material available to the public no later than 24 hours prior to the meeting start time. If ONC is unable to post the background material on its website prior to the meeting, the material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on ONC's website after the meeting, at <http://www.healthit.gov/hitac>.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person prior to the meeting date. An oral public comment period will be scheduled at each meeting. Time allotted for each presentation will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled public comment period, ONC will take written comments after the meeting.

Persons attending ONC's HITAC meetings are advised that the agency is not responsible for providing wireless access or access to electrical outlets.

ONC welcomes the attendance of the public at its HITAC meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Lauren Richie at least seven (7) days in advance of the meeting.

Notice of these meetings are given under the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., App. 2).

Dated: June 23, 2020.

Cassandra Hadley,

Office of Policy, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2020-13978 Filed 6-26-20; 8:45 am]

BILLING CODE 4150-45-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NHP MHC and KIR Allele Discovery and Typing Technology Development.

Date: July 21, 2020.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G41 Rockville, MD 20892 (Virtual Meeting).

Contact Person: Tara Capece, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G41 Rockville, MD 20852 301-761-7854 capecet2@niaid.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology,

and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 23, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–13884 Filed 6–26–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Function, Integration, and Rehabilitation Sciences Subcommittee.

Date: October 19, 2020.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH/NICHD, 6710 B Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Helen Huang, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, Bethesda, MD 20817, 301–435–8380, helen.huang@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 22, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–13835 Filed 6–26–20; 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; JUN2020 Cycle 35 NExT SEP Committee Meeting.

Date: August 5, 2020.

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 31, Room 3A44, Bethesda, MD 20892 (Teleconference Call).

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.

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.

(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: June 23, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–13834 Filed 6–26–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2020–0278]

Port Access Route Study: Northern New York Bight

AGENCY: Coast Guard, DHS.

ACTION: Notice of study and public meetings; request for comments.

SUMMARY: The Coast Guard is conducting a Port Access Route Study (PARS) to evaluate the adequacy of existing vessel routing measures and determine whether additional vessel routing measures are necessary for port approaches to New York and New Jersey and international and domestic transit areas in the First District area of responsibility. The Northern New York Bight PARS (NNYBPARS) will consider whether existing or additional routing measures are necessary to improve navigation safety due to factors such as planned or potential offshore development, current port capabilities and planned improvements, increased vessel traffic, existing and potential anchorage areas, changing vessel traffic patterns, effects of weather, or navigational difficulty. Vessel routing measures, which include traffic separation schemes, two-way routes, recommended tracks, deep-water routes, precautionary areas, and areas to be avoided, are implemented to reduce the risk of marine casualties. The recommendations of the study may subsequently be implemented through rulemakings or in accordance with international agreements.

DATES: Comments and related material must be received on or before August 28, 2020. Although the Coast Guard prefers and highly encourages all comments and related material be submitted directly to the electronic docket, two virtual public meetings will be held via webinar and teleconference to provide an opportunity for oral comments about the NNYBPARS on Thursday, July 30, 2020, beginning at 9 a.m. EST, and on Tuesday, August 11, 2020, beginning at 6 p.m. EST. All comments and related material submitted must be received by the Coast Guard on or before August 28, 2020.

Commenters should be aware that the electronic Federal Docket Management System will not accept comments after midnight Eastern Daylight Time on the last day of the comment period.

ADDRESSES: You may submit comments identified by docket number USCG–2020–0278 using the Federal eRulemaking Portal <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

The virtual public meeting on Thursday, July 30, 2020, beginning at 9 a.m. EST, will be held via webinar and teleconference.

The virtual public meeting on Tuesday, August 11, 2020, beginning at 6 p.m. EST, will be held via webinar and teleconference.

Access information for these virtual public meetings will be posted at <https://www.navcen.uscg.gov/?pageName=PARS> by July 23, 2020.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of study, call or email Mr. Craig Lapiejko, First Coast Guard District (dpw), U.S. Coast Guard; telephone (617) 223–8351, email craig.d.lapiejko@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

ACPARS	Atlantic Coast Port Access Route Study
AIS	Automatic Identification System
COMDTINST	Commandant Instruction
DHS	Department of Homeland Security
EEZ	Exclusive Economic Zone
IMO	International Maritime Organization
MTS	Marine Transportation System
NAD83	North American Datum of 1983
NNYB	Northern New York Bight
PARS	Port Access Route Study
PWSA	Ports and Waterways Safety Act
TSS	Traffic Separation Scheme
USCG	United States Coast Guard

II. Background and Purpose

A. Requirements for Port Access Route Studies: Under Section 70003 of Title 46 of the United States Code, the Commandant of the U.S. Coast Guard may designate necessary fairways and traffic separation schemes (TSSs) to provide safe access routes for vessels proceeding to and from U.S. ports. The designation of fairways and TSSs recognizes the paramount right of navigation over all other uses in the designated areas.

Before establishing or adjusting fairways or TSSs, the Coast Guard must conduct a PARS, *i.e.*, a study of potential traffic density and the need for safe access routes for vessels. Through the study process, the Coast Guard must

coordinate with federal, state, and foreign state agencies (where appropriate) and consider the views of maritime community representatives, environmental groups, and other interested stakeholders. The primary purpose of this coordination is, to the extent practicable, to reconcile the need for safe access routes with other reasonable waterway uses such as anchorages, construction, and operation of renewable energy facilities, marine sanctuary operations, commercial and recreational activities, and other uses.

In addition to aiding the Coast Guard in establishing new or adjusting fairways or TSSs, this PARS may recommend establishing or amending other vessel routing measures. Examples of other routing measures include two-way routes, recommended tracks, deep-water routes (for the benefit primarily of ships whose ability to maneuver is constrained by their draft), precautionary areas (where ships must navigate with particular caution), and areas to be avoided (for reasons of exceptional danger or especially sensitive ecological and environmental factors).

B. Previous Port Access Route Studies within this Study Area: The original precautionary area and TSSs within this study area were first established in May, 1967, and were approved by the International Maritime Organization (IMO).

In 1987 the Coast Guard conducted a PARS prior to establishing two parallel shipping safety fairways off New York entitled “Ambrose to Nantucket Safety Fairway” and “Nantucket to Ambrose Safety Fairway” and published the final results in the **Federal Register** (52 FR 33589; September 4, 1987).

In 2016, the Coast Guard published a notice of its Atlantic Coast Port Access Route Study (ACPARS) in the **Federal Register** (81 FR 13307; March 14, 2016) and announced the study report as final in the **Federal Register** (82 FR 16510; April 5, 2017). The ACPARS analyzed the Atlantic Coast waters seaward of existing port approaches within the U.S. Exclusive Economic Zone (EEZ). This multiyear study began in 2011, included public participation, and identified the navigation routes customarily followed by ships engaged in commerce between international and domestic U.S. ports. The study is available at <https://navcen.uscg.gov/?pageName=PARSReports>. Data and information from stakeholders, including Automatic Identification System (AIS) data from vessel traffic, were used to identify and verify deep draft and coastwise navigation routes that are typically followed by ships

engaged in commerce between international and domestic U.S. ports.

C. Need for a New Port Access Route Study: In 2019, the Coast Guard announced a new study of routes used by ships to access ports on the Atlantic Coast of the United States in the **Federal Register** (84 FR 9541; March 15, 2019). This new study supplements and builds upon the ACPARS by conducting a series of PARS to examine ports along the Atlantic Coast that are economically significant or support military or critical national defense operations and related international entry and departure transit areas that are integral to the safe and efficient and unimpeded flow of commerce to/from major international shipping lanes. The NNYBPARS is just one of these several new studies being conducted.

III. Information Requested

The New York Bight encompasses a very large area starting along the coasts of New York and New Jersey, from Montauk Point, NY, to Cape May, NJ, and then offshore to the outer edge of the Continental Shelf. The purpose of this notice is to announce the commencement of this PARS to examine the First District’s portion of the New York Bight which includes the port approaches to New York and New Jersey and the international and domestic entry and departure transit areas in conjunction with the implementation of recommendations of the ACPARS, and to solicit public comments. Similar to the ACPARS, this PARS will focus on and use AIS data and information from stakeholders to identify and verify customary navigation routes as well as routes between port approaches and international entry and departure transit areas. The Coast Guard encourages participation in the study process by submitting comments in response to this notice. Comments should address impacts to navigation within the study area resulting from factors such as: Planned or potential offshore development, current port capabilities and planned improvements, increased vessel traffic, changing vessel traffic patterns, effects of weather, potential conflicts or disruptions in uncharted or informal anchorage areas, or navigational difficulties or concerns in general.

IV. Public Participation and Request for Comments

We encourage you to participate in this study by submitting comments and related materials. All comments received will be posted without change to <https://www.regulations.gov> and will

include any personal information you have provided.

A. Submitting Comments: If you submit comments to the online public docket, please include the docket number for this notice (USCG–2020–0278), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. We accept anonymous comments.

To submit your comment online, go to <https://www.regulations.gov>, and insert “USCG–2020–0278” in the “search box.” Click “Search” and then click “Comment Now.” We will consider all comments and material received during the comment period.

B. Public Meetings: We plan to hold two virtual public meetings to receive oral comments on this notice. Again, as stated earlier, the Coast Guard prefers and highly encourages all comments and related material be submitted directly to the online public docket, but two virtual public meetings will be held via webinar and teleconference to provide an opportunity for oral comments about the NNYBPARS. If you want to provide a written version of your oral comments made at the virtual public meeting, you may submit them directly to Mr. Craig Lapiejko. These comments will be added to our online public docket. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission. Attendance at the virtual public meeting is not required. We will

provide a written summary of the oral comments received and will place that summary in the online public docket.

The first virtual public meeting on Thursday, July 30, 2020, beginning at 9 a.m. EST, will be held via webinar and teleconference.

Access information for this virtual public meetings will be posted at <https://www.navcen.uscg.gov/?pageName=PARS> by July 23, 2020.

The second virtual public meeting on Tuesday, August 11, 2020, beginning 6 p.m. EST, will be held via webinar and teleconference.

Access information for this virtual public meetings will be posted at <https://www.navcen.uscg.gov/?pageName=PARS> by July 23, 2020.

C. Viewing Comments and Documents: To view the comments and documents mentioned in this preamble as being available in the online public docket, go to <http://www.regulations.gov>, click on the “read comments” box, which will then become highlighted in blue. In the “Keyword” box insert “USCG–2020–02782” and click “Search.” Click the “Open Docket Folder” in the “Actions” column.

D. Privacy Act: We accept anonymous comments. All comments received will be posted without change to <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS’s Correspondence System of Records notice (84 FR 48645, September 26, 2018). Documents mentioned in this notice as being available in the docket, and all public

comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website’s instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

V. Northern New York Bight PARS: Timeline, Study Area, and Process

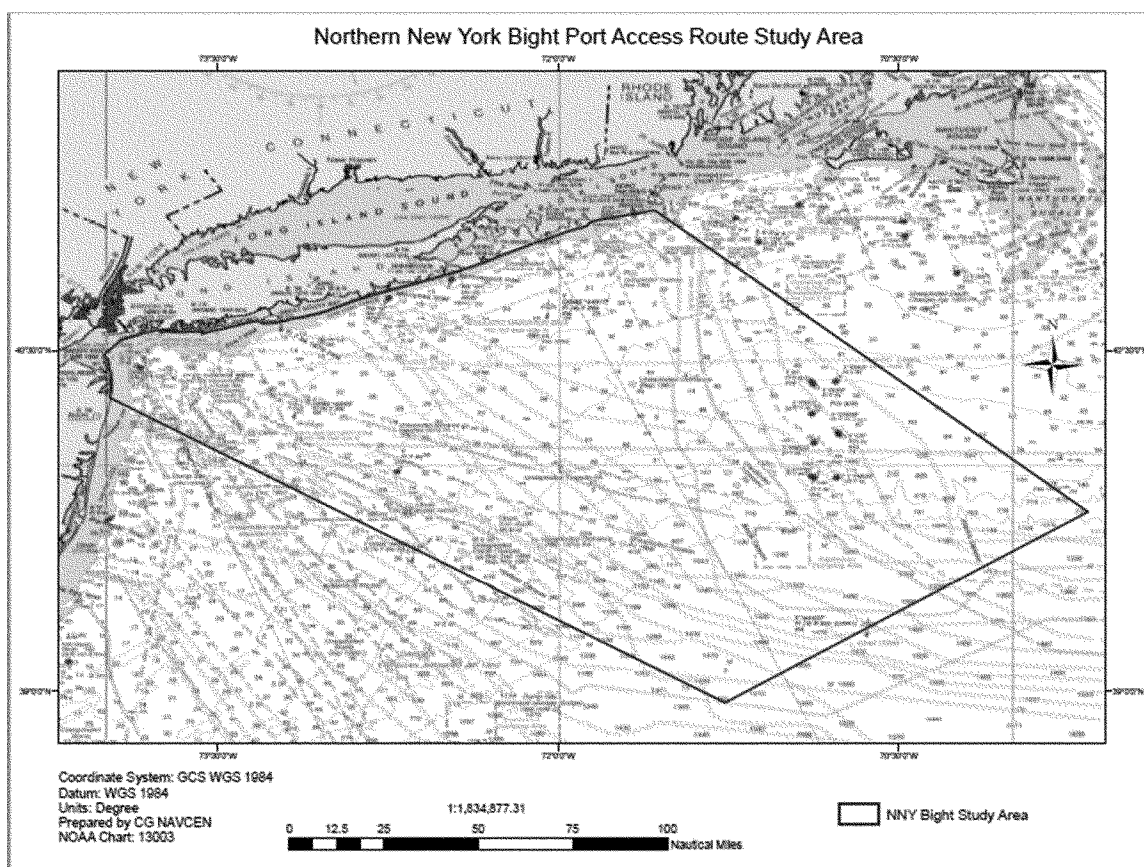
The First Coast Guard District, Coast Guard Sector New York, and Coast Guard Sector Long Island Sound will conduct this PARS. The study will commence upon publication of this notice and may take 12 months or more to complete.

The study area is described as an area bounded by a line connecting the following geographic positions:

40 18’00.0” N 074 00’00.0” W
38 57’00.0” N 071 16’00.0” W
39 47’24.0” N 069 40’01.2” W
41 07’12.0” N 071 34’33.6” W
41 04’15.6” N 071 51’25.2” W

thence along the coast line back to the origin. All geographic points are based on North American Datum of 1983 (NAD 83).

This area extends approximately 150 nautical miles seaward and covers approximately 25,000 square nautical miles including the offshore area of New Jersey and New York used by private, commercial, and public vessels transiting to and from these ports. An illustration showing the study area is below with additional illustrations available in the online public docket where indicated under **ADDRESSES**.



This PARS will identify and analyze the customary navigation routes between the port approaches of New York and New Jersey and the international and domestic transit areas and connecting them to the potential fairways identified in the ACPARS final report.

Analyses will be conducted in accordance with COMDTINST 16003.2B, Marine Planning to Operate and Maintain the Marine Transportation System (MTS) and Implement National Policy. Instruction is available at https://media.defense.gov/2019/jul/10/2002155400/-1/-1/0/CI_16003_2B.PDF.

We will publish the results of the PARS in the **Federal Register**. It is possible that the study may validate the status quo (no additional fairways or routing measures) and conclude that no changes are necessary. It is also possible that the study may recommend one or more changes to address navigational safety and the efficiency of vessel traffic management. The recommendations may lead to future rulemakings or international agreements.

This notice is published under the authority of 5 U.S.C. 552(a).

Dated: June 23, 2020.

T.G. Allan Jr.,
*Rear Admiral, U.S. Coast Guard, Commander,
First Coast Guard District.*

[FR Doc. 2020-13901 Filed 6-26-20; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2020-0026; Internal Agency Docket No. DHS-19-GPD-044-000-98]

Assistance to Firefighters Grant Program; Fire Prevention and Safety Grants

AGENCY: Federal Emergency Management Agency, Department of Homeland Security (DHS).

ACTION: Notice of guidance.

SUMMARY: This Notice provides guidelines that describe the application process for Fire Prevention and Safety (FP&S) grants and the criteria the Federal Emergency Management Agency (FEMA) will use to award these grants for Fiscal Year (FY) 2019. It explains the differences, if any, between these

guidelines and those recommended by representatives of the Nation's fire service leadership during the annual Criteria Development meeting, which was held Dec. 12-13, 2018. The application period for the FY 2019 FP&S Grant Program was April 27, 2020, to May 29, 2020, and was announced on the Assistance to Firefighters Grant (AFG) website (www.fema.gov/firegrants), www.grants.gov, and the U.S. Fire Administration website (www.usfa.fema.gov).

DATES: Grant applications for the FP&S Grant Program were accepted electronically at <https://go.fema.gov> from April 27, 2020, at 8:00 a.m. ET to May 29, 2020, at 5:00 p.m. ET.

ADDRESSES: Assistance to Firefighters Grants Branch, DHS/FEMA, 400 C Street SW, 3N, Washington, DC 20472-3635.

FOR FURTHER INFORMATION CONTACT: Catherine Patterson, Chief, Assistance to Firefighters Grants Branch, (866) 274-0960.

SUPPLEMENTARY INFORMATION: The purpose of the FP&S Grant Program is to enhance the safety of the public and firefighters by assisting fire prevention programs and supporting firefighter health and safety research and development. The FEMA Grant Programs Directorate administers the

FP&S Grant Program as part of the AFG Program.

FP&S grants are offered to support projects in two activities:

1. Activities designed to reach high-risk target groups and mitigate the incidence of death, injuries, and property damage caused by fire and fire-related hazards ("FP&S Activity").
2. Projects aimed at improving firefighter safety, health, or wellness through research and development that reduce firefighter fatalities and injuries ("R&D Activity").

The grant program's authorizing statute requires that FEMA publish the guidelines that describe the application process and the criteria for grant awards in the **Federal Register** each year. In total, 675 applications for the FP&S Grant Program were submitted electronically, using the application submission form and process available at FEMA GO: <https://go.fema.gov>. Although the application period has closed, specific information about the submission of grant applications can be found in the FY 2019 FP&S Notice of Funding Opportunity (NOFO), which is available for download at www.fema.gov/firegrants and at www.regulations.gov under Docket ID: FEMA-2020-0026.

Appropriations

Congress appropriated \$350 million for AFG in FY 2019 pursuant to the *Department of Homeland Security Appropriations Act, 2019*, Public Law 116-6. From this amount, \$35 million will be made available for FP&S Grant awards, pursuant to 15 U.S.C. 2229(h)(5), which states that not less than 10 percent of available grant funds each year are awarded under the FP&S Grant Program. Funds appropriated for all FY 2019 AFG awards, pursuant to Public Law 116-6, will be available for obligation and award until Sept. 30, 2020.

FEMA anticipates that it will award approximately 150 FP&S grants from the 675 applications.

Background of the AFG Program

FEMA awards grants on a competitive basis to applicants that best address the FP&S Grant Program's priorities and provide the most compelling justification. A panel of reviewers evaluate each project in accordance with the evaluation criteria. The highest rated projects are recommended for funding.

Award Criteria

All applications for grants will be prepared and submitted through FEMA GO (<https://go.fema.gov>).

Applications submitted under the FP&S activity will be reviewed by a panel of fire service members using the following criteria:

- Financial Need
- Vulnerability Statement
- Project Description
- Implementation Plan
- Evaluation Plan
- Cost-Benefit

The applications submitted under the R&D Activity will be reviewed first by a panel of fire service members to identify those applications most relevant to the fire service. The following evaluation criteria will be used for this review:

- Purpose
- Potential Impact
- Implementation by the Fire Service
- Barriers
- Partners

The applications that are determined most likely to enable improvement in firefighter safety, health or wellness will be deemed to be in the "competitive range" and forwarded to the second level of application review, which is the science panel review process. This panel will be composed of scientists and technology experts who have expertise pertaining to the subject matter of the proposal.

The Science Panel for the R&D Activity will review the application and evaluate it using the following criteria:

- Project Goals, Objectives and Specific Aims
- Literature Review
- Project Methods
- Project Measurements
- Project Analysis
- Dissemination and Implementation
- Cost vs. Benefit (additional consideration)
- Financial Need (additional consideration)
- Mentoring (additional consideration for Early Career Investigator Projects only)

Eligible Applicants

Under the FY 2019 FP&S Grant Program, eligible applicants are limited to those entities described below within each activity:

1. Fire Prevention and Safety (FP&S) Activity: Eligible applicants for this activity included fire departments and national, regional, state, local, tribal and nonprofit organizations that are recognized for their experience and expertise in fire prevention and safety programs and activities. Both private and public non-profit organizations are eligible to apply for funding in this activity. For-profit organizations,

Federal agencies, and individuals are not eligible to receive an FP&S Grant Award under the FP&S Activity.

2. Firefighter Safety Research and Development (R&D) Activity: Eligible applicants for this activity include national, state, local, federally-recognized tribal, and nonprofit organizations, such as academic (e.g., universities), public health, occupational health, and injury prevention institutions. Both private and public non-profit organizations are eligible to apply for funding in this activity.

The aforementioned entities are encouraged to apply, especially those that are recognized for their experience and expertise in firefighter safety, health, and wellness research and development activities. Fire departments are not eligible to apply for funding in the R&D activity. Additionally, for-profit organizations, Federal agencies, and individuals are not eligible to receive a grant award under the R&D Activity.

Funding Limitations

Awards are limited to a maximum Federal share of \$1.5 million dollars regardless of applicant type, in accordance with 15 U.S.C. 2229(d)(2). FP&S Research and Development applicants that applied under the Early Career Investigator category are limited to a maximum Federal share of \$75,000 per project year.

Cost Sharing

Grant recipients must share in the costs of the projects funded under this grant program as required by 15 U.S.C. 2229(k)(1) and in accordance with 2 CFR 200.101(b)(1), but they were not required to have the cost share at the time of application nor are they required to have it at the time of award. However, before a grant is awarded, FEMA may contact potential awardees to determine whether the grant recipient has the funding in hand or whether the grant recipient has a viable plan to obtain the funding necessary to fulfill the cost-share requirement.

In general, an eligible applicant seeking an FP&S grant to carry out an activity shall agree to make available non-Federal funds to carry out such activity in an amount equal to, and not less than, 5 percent of the grant awarded. Cash match and in-kind matches are both allowable in the FP&S Grant Program. Cash (hard) matches include non-Federal cash spent for project-related costs. In-kind (soft) matches include, but are not limited to, the valuation of in-kind services; complementary activities; and provision

of staff, facilities, services, material, or equipment. In-kind is the value of something received or provided that does not have a cost associated with it. For example, where an in-kind match (other than cash payments) is permitted, then the value of donated services could be used to comply with the match requirement. Also, third party in-kind contributions may count toward satisfying match requirements provided the grant recipient receiving the contributions expends them as allowable costs in compliance with provisions listed above.

Grant recipients under this program must also agree to a maintenance of effort requirement per 15 U.S.C. 2229(k)(3) (referred to as a "maintenance of expenditure" requirement in that statute). Per this requirement, a grant recipient shall agree to maintain during the term of the grant, the grant recipient's aggregate expenditures relating to the activities allowable under the FP&S NOFO at not less than 80 percent of the average amount of such expenditures in the 2 fiscal years preceding the fiscal year in which the grant amounts are received.

In cases of demonstrated economic hardship and upon the request of the grant recipient, the FEMA Administrator may waive or reduce a certain grant recipient's cost share or maintenance of expenditure requirements (15 U.S.C. 2229(k)(4)(A)). As required by 15 U.S.C. 2229(k)(4)(B), the Administrator established guidelines for determining what constitutes economic hardship and published these guidelines at FEMA's website (www.fema.gov/grants). Per 15 U.S.C. 2229(k)(4)(C), FP&S nonprofit organization grant recipients that are not fire departments or emergency medical services organizations are not eligible to receive a waiver of their cost-share for economic hardship requirements.

System for Award Management (SAM)

Per 2 CFR 25.200, all grant applicants and recipients are required to register in <https://SAM.gov>, which is available free of charge. FEMA required active SAM registration at the time of application in FEMA GO, and will not process any awards, consider any payment or amendment requests, or consider any amendment unless the applicant or grant recipient has complied with the requirements to provide a valid Dun & Bradstreet (DUNS) database number and an active SAM registration with current information. The banking information, employer identification number (EIN), organization/entity name, address, and DUNS number provided in SAM will be automatically transferred to the

application after the entity registers in FEMA GO at <https://go.fema.gov>.

Application Process

Applicants were only permitted to submit one application, but were permitted to apply for up to three projects under each activity (FP&S and R&D). Any applicant that submitted more than one application may have *all* applications deemed ineligible.

Under the FP&S Activity, applicants could apply under the following categories:

- Community Risk Reduction
- Wildfire Risk Reduction
- Fire & Arson Investigation
- Code Enforcement/Awareness
- National/State/Regional Programs and Studies Under the R&D Activity, applicants could apply under the following categories:
- Clinical Studies
- Technology and Product Development
- Database System Development
- Dissemination and Implementation Research
- Preliminary Studies
- Early Career Investigator

Prior to the start of the FY 2019 FP&S Grant Program application period, FEMA provided applicants with technical assistance tools (available at the AFG website: www.fema.gov/firegrants) and other online information to help them prepare quality grant applications. AFG also staffed a Help Desk throughout the application period to assist applicants with navigation through the automated application as well as assistance with related questions. The AFG Help Desk can be reached year-round through a toll-free telephone number (866-274-0960) or email (firegrants@fema.dhs.gov).

Applicants were advised to access the application electronically at <https://go.fema.gov>. The application is also accessible from the *Grants.gov* website (<http://www.grants.gov>). New applicants were required to register and establish a username and password electronically at <https://go.fema.gov> for secure access to their application.

In completing an application under this funding opportunity, applicants were asked to provide relevant information on their organization's characteristics and existing capabilities. Those applicants were asked to answer questions about their grant request that reflect the funding priorities, described below. In addition, applicants were required to complete narratives for each project requested.

The following are the funding priorities for each category under the FP&S Activity:

- *Community Risk Reduction*—Under the Community Risk Reduction category there are three funding priorities:

- Priority will be given to programs that target a specific high-risk population to conduct both door-to-door smoke alarm installations and provide home safety inspections, as part of a comprehensive home fire safety campaign.

- Priority will be given to programs that include sprinkler awareness that affect the entire community, such as educating the public about sprinklers, promoting sprinklers, and demonstrating working models of sprinklers.

- Priority will be given to programs to conduct community-appropriate comprehensive risk assessments and risk reduction planning.

- *Wildfire Risk Reduction*—These are education and awareness programs that protect lives, property, and natural resources from fire in the Wildland Urban Interface (WUI) (not forestry), including Community Wildfire Protection Plans (CWPP) or programs supporting fire adapted community initiatives.

- *Code Enforcement/Awareness*—These are projects that focus on first time or reinstatement of code adoption and code enforcement, including WUI codes for communities with a WUI-wildfire risk.

- *Fire & Arson Investigation*—These are projects that aim to aggressively investigate every fire.

- *National/State/Regional Programs and Studies*—These are projects that focus on residential fire issues and/or firefighter safety and wellness.

Under the R&D Activity, in order to identify and address the most important elements of firefighter safety, FEMA looked to the fire service for its input and recommendations. In June 2005, the National Fallen Firefighters' Foundation (NFFF) hosted a working group to facilitate the development of an agenda for the Nation's fire service, and in particular for firefighter safety. In November 2015, the NFFF hosted its third working group to update the agenda with current priorities. A copy of the research agenda is available on the NFFF website at <http://www.everyonegoeshome.com/resources/research-symposium-reports/>.

All proposed projects, regardless of whether they have been identified by this working group, will be evaluated on their relevance to firefighter health and safety, and scientific rigor.

The electronic application process permits the applicant to enter and save the application data. The system does not permit the submission of incomplete

applications. Except for the narrative textboxes, the application uses a “point-and-click” selection process or requires the entry of data (e.g., name and address). Applicants were encouraged to read the FP&S NOFO for more details.

Criteria Development Process

Each year, FEMA convenes a panel of fire service professionals to develop the funding priorities and other implementation criteria for AFG. The Criteria Development Panel is composed of representatives from nine major fire service organizations that are charged with making recommendations to FEMA regarding the creation of new funding priorities, the modification of existing funding priorities, and the development of criteria for awarding grants. The nine major fire service organizations represented on the panel:

- Congressional Fire Services Institute (CFSI)
- International Association of Arson Investigators (IAAI)
- International Association of Fire Chiefs (IAFC)
- International Association of Fire Fighters (IAFF)
- International Society of Fire Service Instructors (ISFSI)
- National Association of State Fire Marshals (NASFM)
- National Fire Protection Association (NFPA)
- National Volunteer Fire Council (NVFC)
- North American Fire Training Directors (NAFTD)

The FY 2019 Criteria Development Panel meeting occurred Dec.12–13, 2018. The content of the FY 2019 FP&S Notice of Funding Opportunity reflects the implementation of the Criteria Development Panel’s recommendations with respect to the priorities, direction and criteria for awards. All of the funding priorities for the FY 2019 FP&S Grant Program are designed to address the following:

- First responder safety
- Enhancing national capabilities
- Risk
 - Interoperability

Changes for FY 2019

The following changes were made between the FY 2018 and the FY 2019 FP&S Grant Program:

- Micro Grants are no longer available.
- FY 2019 FP&S Applications are submitted in FEMA GO.
- Fire Departments and Interest Organizations are scored differently under the FP&S Activity.
- Wildfire Risk Reduction Programs are an eligible category.

• Wood Chipper Programs are eligible when part of a Wildfire Risk Reduction Program. The following costs are eligible under a Wood Chipper Program:

- Contract services for fuel reduction or removal (community wood chipper), or
- Renting wood chippers, and
- Salary & benefits for employees for dedicated community wood chipper duties.
- Occupational Health is included as an R&D Special Emphasis Topic.
- The following items and activities are added to the ineligible expenses list:
 - Entertainment: Electronics, events, etc.
 - Props (except as required for educational programs)
 - Robotics
 - Demonstration tug boats
 - Inflatable houses
 - Dollar amount for giveaways (plastic fire helmets, stickers, plastic badges, etc.) is limited to \$2,500 for fire departments, and \$5,000 for regional grants
 - Fire Safety Trailers allowed only as part of a regional project

Application Review Process and Considerations

The program’s authorizing statute requires that each year FEMA publish in the **Federal Register** a description of the grant application process and the criteria for grant awards. This information is provided below.

FEMA will review and evaluate all FP&S applications submitted using the funding priorities and evaluation criteria described in this document, which are based on recommendations from the AFG Criteria Development Panel.

Peer Review Process

Peer Review Panel Process—Fire Prevention and Safety Activity

All FP&S Activity applications will be evaluated by a peer review process. A panel of peer reviewers is composed of fire service representatives recommended by the Criteria Development Panel. These reviewers will assess each application’s merits with respect to the detail provided in the Narrative Statement on the activity, including the evaluation elements listed in the Evaluation Criteria identified below. The panel will independently score each project within the application, discuss the merits and/or shortcomings of the application, and document the findings. A consensus is not required.

Peer Review Panel Process—Research and Development Activity

R&D Activity applications will go through a two-phase review process. First, all applications will be reviewed by a panel of fire service experts to assess the need for the research results and the likelihood that the results would be implemented by the fire service in the United States. Applications that are deemed likely to be implemented to enable improvement in firefighter safety, health, or wellness will be deemed to be in the “competitive range” and will be forwarded to the second level of project review, which is the science review panel process. This panel will be composed of scientists and technology experts who have expertise pertaining to the subject matter of the proposal.

Science panel reviewers will independently score applications in the competitive range and, if necessary, discuss the merits or shortcomings of the project in order to reconcile any major discrepancies identified by the reviewers. A consensus is not required.

Technical Evaluation Process

The highest ranked projects from both Activities will be deemed in the fundable range. Applications that are in the fundable range will undergo a Technical Review by the FEMA Program Office prior to being recommended for award. The FEMA Program Office will assess the request with respect to costs, quantities, feasibility, eligibility, and recipient responsibility prior to recommending any application for award.

Once the review process is complete, each project’s score will be determined and a final ranking of project applications will be created. FEMA will award grants based on this final ranking. Award announcements will be made on a rolling basis until all available grant funds have been committed. Awards will not be made in any specified order. FEMA will notify unsuccessful applicants as soon as it is feasible.

Evaluation Criteria for Projects—Fire Prevention and Safety Activity

Funding decisions will be informed by an assessment of how well the application addressed the criteria and considerations listed below. Applications will be reviewed by the peer reviewers using weighted evaluation criteria to score the project. These scores will impact the ranking of a project for funding.

The relative weight of the evaluation criteria in the determination of the grant award is listed below.

- *Financial Need (Departments-10 percent, Interest Organizations-0 percent)*: Applicants must have provided details on the need for financial assistance to carry out the proposed project(s). Included in the description might be other unsuccessful attempts to acquire financial assistance or specific details of the applicant's operational budget.

- *Vulnerability Statement (Departments-20 percent, Interest Organizations-25 percent)*: The assessment of fire risk is essential in the development of an effective project goal, as well as meeting FEMA's goal to reduce risk by conducting a risk assessment as a basis for action. Vulnerability is a "weak link" demonstrating high risk behavior, living conditions or any type of high risk situation. The Vulnerability Statement should have included a description of the steps taken to determine the vulnerability and identify the target audience. The methodology for determination of vulnerability (*i.e.*, how the vulnerability was found) should have been discussed in-depth in the application's Narrative Statement.

- Fire Department applicants should note that 5 percent of the available 20 percent for this narrative element will be provided to those applicants that can demonstrate their commitment and proactive posture to reducing fire risk. Applicants must have explained their code adoption and enforcement (to include Wildland Urban Interface and commercial/residential sprinkler code adoption and enforcement) and mitigation strategies (including whether or not the jurisdiction has a FEMA-approved mitigation strategy) to receive the full 20 percent. Also, note that departments can have demonstrated their commitment to reducing fire risk by applying to implement fire mitigation strategies (code adoption and enforcement) via the application.

- The specific vulnerability that will be addressed with the proposed project can be established through a formal or informal risk assessment. FEMA encourages the use of local statistics, rather than national statistics, when discussing the vulnerability.

- The applicant should have summarized the vulnerability the project will address in a clear, to-the-point statement that addresses who is at risk, what the risks are, where the risks are, and how the risks can be prevented, reduced, or mitigated.

- For the purpose of the FY 2019 FP&S NOFO, formal risk assessments consist of the use of software programs or recognized expert analysis that assess risk trends.

- Informal risk assessments could include an in-house review of available data (*e.g.*, National Fire Incident Reporting System) to determine fire loss, burn injuries, or loss of life over a period of time and the factors that are the cause and origin for each occurrence, including a lack of adoption and enforcement of certain codes.

- *Project Description (Departments-20 percent, Interest Organizations-25 percent)*: Applicants must have described in detail not only the project components but also how the proposed project addresses the identified capability gap, due to financial need and/or the vulnerabilities identified in the vulnerability statement. The following information should have been included:

- Project components.
- Review of any existing programs or models that have been successful.
- Detailed description of how the proposed project components fill the identified capability gap.
- If working with Fire Service Partners/Organizations, identify each partner/organization and the role(s) they will fill in the successful completion of the proposed project.

- *Implementation Plan (Departments-25 percent, Interest Organizations-30 percent)*: Projects should have provided details on the implementation plan, discussing the proposed project's goals and objectives. The following information should have been included to support the implementation plan:

- Goals and objectives.
- Details regarding the methods and specific steps that will be used to achieve the goals and objectives.
- Timelines outlining the chronological project steps (this is critical for determining the likeliness of the project's completion within the period of performance).
- Where applicable, examples of marketing efforts to promote the project, who will deliver the project (*e.g.*, effective partnerships), and the manner in which materials or deliverables will be distributed.

- Requests for props (*i.e.*, tools used in educational or awareness demonstrations), including specific goals, measurable results, and details on the frequency for which the prop will be utilized as part of the implementation plan. Applicants should include information describing the efforts that will be used to reach the high risk audience and/or the number of people reached through the proposed project (examples of props include safety trailers, puppets, or robots).

- *Evaluation Plan (Departments-15 percent, Interest Organizations-15*

percent): Projects should have included a plan for evaluation of effectiveness and identify measurable goals. Applicants seeking to carry out awareness and educational projects, for example, should have identified how they intend to determine that there has been an increase in knowledge about fire hazards, or measure a change in the safety behaviors of the audience. Applicants should have demonstrated how they will measure risk at the outset of the project in comparison to how much the risk decreased after the project is finished. There are various ways to measure the knowledge gained about fire hazards, including the use of surveys, pre- and post-tests, or documented observations. Applicants are encouraged to attend training on evaluation methods, such as the National Fire Academy's "Demonstrating Your Fire Prevention Program's Worth." In addition to a detailed evaluation plan as described above, if awarded, grant recipients are required to report on specific performance metrics through performance reports and at closeout.

- *Cost-Benefit (Departments-10 percent, Interest Organizations-5 percent)*: Projects will be evaluated and scored by the Peer Review panelists based on how well the applicant addresses the fire prevention needs of the department or organization in an economic and efficient manner. The applicant should have shown how it will maximize the level of funding that goes directly into the delivery of the project. The costs associated with the project also must be reasonable for the target audience that will be reached, and a description should have been included of how the anticipated project benefit(s) (quantified if possible) outweighs the cost(s) of the requested item(s). The application should have provided justification for all costs included in the project in order to assist the Technical Evaluation Panel with their review.

- *Meeting the needs of people with disabilities (additional consideration)*: Applicants in the Community Risk Reduction category will receive additional consideration if, as part of their comprehensive smoke alarm installation and education program, they address the needs of people with disabilities (*e.g.*, deaf/hard-of-hearing) in their community.

- *Experience and Expertise (additional consideration)*: Applicants that demonstrated their experience and ability to conduct fire prevention and safety activities, and to execute the proposed or similar project(s), will receive additional consideration.

Evaluation Criteria—Firefighter Safety Research and Development Activity

Funding decisions will be informed by an assessment of how well the application addresses the criteria and considerations listed below. All applications will be reviewed by a fire service expert panel using weighted evaluation criteria, and those projects deemed to be in the “competitive range” will then be reviewed by a science panel using weighted evaluation criteria to score the project. Science panel evaluations will impact the ranking of the project for funding.

Fire Service Panel Evaluation Criteria:

- *Purpose (25 percent)*: Applicants should have clearly identified the benefits of the proposed research project to improve firefighter safety, health, or wellness, and identify specific gaps in knowledge that will be addressed.

- *Implementation by Fire Service (25 percent)*: Applicants should have discussed how the outcomes/products of this research, if successful, are likely to be widely/nationally adopted and accepted by the fire service as changes that enhance firefighter safety, health, or wellness.

- *Potential Impact (15 percent)*: Applicants should have discussed the potential impact of the research outcome/product on firefighter safety by quantifying the possible reduction in the number of fatal or non-fatal injuries, or on the projected wellness by significantly improving the overall health of firefighters.

- *Barriers (15 percent)*: The applicant should have identified and discussed potential fire service and other barriers to successfully complete the study on schedule, including contingencies and strategies to deal with barriers if they materialize. This may include barriers that could inhibit the proposed fire service participation in the study or the adoption of successful results by the fire service when the project is completed.

- *Partners (20 percent)*: Applicants should have recognized that participation of the fire service as a partner in the research, from development to dissemination, is regarded as an essential part of all projects. Applicants should have described the fire service partners and contractors that will support the project to accomplish the objectives of the study. The specific roles and contributions of the partners should have been described. Partnerships may be formed with local and regional fire departments, and also with national fire-related organizations. Letters of support and letters of commitment to actively participate in the project should

have been included in the appendix of the application. Generally, participants of a diverse population, including both career and volunteer firefighters, are expected to facilitate acceptance of results nationally. In cases where this is not practical, due to the nature of the study or other limitations, these circumstances should have been clearly explained.

Science Panel Evaluation Criteria:

- *Project goals, objectives, and specific aims (15 percent)*: Applicants should have addressed how the purpose, goals, objectives, and aims of the proposal will lead to results that will improve firefighter safety, health, or wellness. For multi-year projects, greater detail should have been given for the first year, however specific goals and objectives are required for the second and third years (if applicable).

- *Literature Review (10 percent)*: Applicants should have provided a literature review that is relevant to the project's goals, objectives, and specific aims. The citations should be placed in the text of the Narrative Statement, with references listed at the end of the Narrative Statement (and not in the Appendix) of the application. The review should be in sufficient depth to make it clear that the proposed project is necessary, adds to an existing body of knowledge, is different from current and previous studies, and offers a unique contribution.

- *Project Methods (20 percent)*: Applicants should have provided a description of how the project will be carried out, including demonstration of the overall scientific and technical rigor and merit of the project. This includes the operations to accomplish the purpose, goals and objectives, and the specific aims of the project. Plans to recruit and retain human subjects, where applicable, should have been described. Where human subjects are involved in the project, the applicant should describe plans for submission to the Institutional Review Board (for further guidance and requirements, see the FY 2019 FP&S NOFO).

- *Project Measurements (20 percent)*: Applicants should have provided evidence of the technical rigor and merit of the project, such as data pertaining to validity, reliability, and sensitivity (where established) of the facilities, equipment, instruments, standards, and procedures that will be used to carry out the research. The applicant should have discussed the data to be collected to evaluate the performance methods, technologies, and products proposed to enhance firefighter safety, health, or wellness. The applicant should have demonstrated that the measurement

methods and equipment selected for use are appropriate and sufficient to successfully deliver the proposed project objectives.

- *Project Analysis (20 percent)*: The applicant should have indicated the planned approach for analysis of the data obtained from measurements, questionnaires, or computations. The applicant should have specified within the plan what will be analyzed, the statistical methods that will be used, the sequence of steps, and interactions as appropriate. It should be clear that the principal investigator and research team have the expertise to perform the planned analysis and defend the results in a peer review process.

- *Dissemination and Implementation (15 percent)*: Applicants should have indicated dissemination plans for scientific audiences (such as plans for submissions to specific peer review publications) and for firefighter audiences (such as websites, magazines, and conferences). Also, assuming positive results, the applicant should have indicated future steps that would support dissemination and implementation throughout the fire service, where applicable. These steps are likely to be beyond the current study, so those features of the research activity that will facilitate future dissemination and implementation should be discussed. All applicants should have specified how the results of the project, if successful, might be disseminated and implemented in the fire service to improve firefighter safety, health, or wellness. It is expected that successful R&D Activity Projects may give rise to future programs including FP&S Activity Projects.

- *Cost vs. Benefit (additional consideration)*: Cost vs. benefit in this evaluation element refers to the costs of the grant for the research and development project as it relates to the benefits that are projected for firefighters who would have improved safety, health, or wellness. Applicants should have demonstrated a high benefit for the cost incurred and effective utilization of Federal funds for research activities.

- *Financial Need (additional consideration)*: In the Applicant Information section of the application, applicants should have provided details on the need for Federal financial assistance to carry out the proposed project(s). Applicants may have included a description of unsuccessful attempts to acquire financial assistance. Applicants should have provided detail about the organization's operating budget, including a high-level breakdown of the budget; describe the

department's inability to address financial needs without Federal assistance; and discuss other actions the department has taken to meet their staffing needs (e.g., state assistance programs, other grant programs, etc.).

- **Mentoring (additional consideration for Early Career Investigator Projects only):** An important part of Early Career Investigator projects is the integration of mentoring for the principal investigator by experienced researchers in areas appropriate to the research project, including exposure to the fire service community as well as support for ongoing development of knowledge and skills. Mentoring is regarded as critical to the research skills development of early career principal investigators. As part of the application Appendix, the applicant should have identified the mentor(s) who have agreed to support the applicant and the expected benefit of their interactions with the researcher. A biographical sketch and letter of support from the mentor(s) were encouraged and should have been included in the Appendix materials.

Other Selection Information

Awards will be made using the results of peer-reviewed applications as the primary basis for decisions, regardless of activity. However, there are some exceptions to strictly using the peer review results. The applicant's prior AFG, SAFER, and FP&S grant management performance will also be taken into consideration when making recommendations for award. All final funding determinations will be made by the FEMA Administrator, or the Administrator's designee.

Fire departments and other eligible applicants that have received funding under the FP&S Grant Program in previous years are eligible to apply for funding in the current year. However, FEMA may take into account an applicant's performance on prior grants when making funding decisions on current applications.

Once every application in the competitive range has been through the technical evaluation phase, the applications will be ranked according to the average score awarded by the panel.

The ranking will be summarized in a Technical Report prepared by the AFG Program Office. A Grants Management Specialist will contact the applicant to discuss and/or negotiate the content of the application and SAM.gov registration before making final award decisions.

Authority: 15 U.S.C. 2229.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020-13976 Filed 6-26-20; 8:45 am]

BILLING CODE 9111-23-P

DEPARTMENT OF HOMELAND SECURITY

Faith-Based Security Advisory Council

AGENCY: The Department of Homeland Security (DHS), Office of Partnership and Engagement (OPE).

ACTION: Notice of new Federal Advisory Committee.

SUMMARY: The Secretary of Homeland Security (Secretary) is establishing the Faith-Based Security Advisory Council (FBSAC). The primary purpose of the FBSAC will be to provide advice and recommendations to the Secretary on matters relating to houses of worship, faith-based organization security and homeland security. The FBSAC will operate in an advisory capacity only. This notice is provided in accordance with the Federal Advisory Committee Act, as amended. The FBSAC will terminate two years from the date of its establishment, unless extended by the Secretary.

FOR FURTHER INFORMATION CONTACT:

Traci Silas at FBSAC@hq.dhs.gov or at (202) 603-1142.

SUPPLEMENTARY INFORMATION: In accordance with 41 CFR 102-3.65(b), as requested by the Department, the General Services Administration Committee Management Secretariat has approved a period of less than 15 calendar days pursuant to the publication of this notice for the filing of the FBSAC Charter.

Zarinah Traci Silas,

Senior Director and Alternate Designated Federal Official.

[FR Doc. 2020-13882 Filed 6-26-20; 8:45 am]

BILLING CODE 9112-FN-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6222-N-01]

Appointments to the Housing Counseling Federal Advisory Committee

AGENCY: Office of the Assistant Secretary for Housing- Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice of the Solicitation of Nominations for Appointment to the

Housing Counseling Federal Advisory Committee (HCFAC) to fill vacancies on the HCFAC.

SUMMARY: The Department of Housing and Urban Development (HUD) established the HCFAC on April 14, 2015. This notice invites nominations for appointments to fill vacancies on the HCFAC.

DATES: All Nominations must be received no later than July 29, 2020.

ADDRESSES: Nominations must be in writing and submitted via email to HCFAC.application@hud.gov. Individuals who do not have internet access may submit nominations to the Office of the Deputy Assistant Secretary for Housing Counseling, Department of Housing and Urban Development, 451 Seventh Street SW, Room 9224, Washington DC 20410.

FOR FURTHER INFORMATION CONTACT:

Virginia F. Holman, Housing Program Specialist, U.S. Department of Housing and Urban Development, Office of Housing Counseling, Office of Outreach and Capacity Building, Virginia.F.Holman@hud.gov, telephone number 540-894-7790. (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 (toll-free number). Individuals with questions may also email HCFAC.application@hud.gov and in the subject line write "HCFAC application question."

SUPPLEMENTARY INFORMATION:

I. Background and Authority

The HCFAC is statutorily mandated to provide advice to the Office of Housing Counseling (OHC) (42 U.S.C. 3533(g)(4)). The HCFAC provides the OHC valuable advice regarding its mission to provide individuals and families with knowledge to obtain, sustain, and improve their housing through a strong national network of HUD-approved housing counseling agencies and HUD-certified counselors. The HCFAC, however, does not have any role in reviewing or awarding of OHC housing counseling grants and procurements. The HCFAC is subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. Appendix) (FACA), FACA regulations, and Presidential Memorandum "Final Guidance on Appointments of Lobbyists to Federal Boards and Commissions," dated June 18, 2010, along with any relevant guidance published in the **Federal Register** or otherwise issued by

the Office of Management and Budget (OMB).¹

The HCFAC shall consist of not more than 8 individuals appointed by the Secretary. The membership will equally represent the mortgage industry, real estate industry, consumers, and HUD-approved housing counseling agencies. Each member shall be appointed in his or her individual capacity for a term of 3 years.

Appointees whose terms have expired are eligible to apply to be nominated for the positions announced herein.

II. Nominations for the Housing Counseling Federal Advisory Committee

HUD is seeking nominations for membership on the HCFAC. Nominees shall have experience representative of at least one of the 4 categories—the mortgage industry, real estate industry, consumers, and HUD-approved housing counseling agencies. Nominations may be made by agency officials, members of Congress, the general public, professional organizations, and self-nominations. Nominees must be U.S. citizens and cannot be U.S. Government employees.

All appointed nominees will be serving on the HCFAC in their individual capacity and not in a representative capacity, therefore, no Federally-registered lobbyists may serve on the HCFAC.² Individual capacity, as clarified by OMB, refers to individuals who are appointed to committees to exercise their own individual best judgment on behalf of the government, such as when they are designated as Special Government Employees as defined in 18 U.S.C. 202. Nominations to the HCFAC must be submitted using Form HUD-90005 (“Application for Membership Housing Counseling Federal Advisory Committee”) which is available on the Office of Housing Counseling’s Federal Advisory Committee web page at: <https://www.hudexchange.info/programs/housing-counseling/federal-advisory-committee/>. Each nominee will be required to provide all the information requested on HUD-90005. Nominations

submitted under this **Federal Register** Notice shall remain valid for two (2) years after the close of the deadline for applications. HUD reserves the right to solicit new nominations, at any time, to fill HCFAC vacancies.

Nominations should be submitted via email to HCFAC.application@hud.gov. Individuals who do not have internet access may submit nominations to the Office of the Deputy Assistant Secretary for Housing Counseling, HUD, 451 7th Street SW, Washington DC 20410.

Those who submitted applications previously, and those who have been appointed previously, must reapply if they wish to be considered for an appointment.

All Nominations must be received no later than *July 29, 2020*.

HCFAC members will be required to adhere to the conflict of interest rules applicable to Special Government Employees as defined in 18 U.S.C. Section 202(a). The rules include relevant provisions in Title 18 related to criminal activity, Standards of Ethical Conduct for Employees of the Executive Branch (*5 CFR part 2635*) and Executive Order 12674 (as modified by Executive Order 12731). Therefore, applicants will be required to submit to pre-appointment screenings relating to conflict of interest and financial interests that HUD might require. If selected, HCFAC members will also be asked to complete OGE Form 450 (Confidential Financial Disclosure Report).

Members of the HCFAC shall serve without pay but shall receive travel expenses including per diem in lieu of subsistence as authorized by 5 U.S.C. 5703. Regular attendance is essential to the effective operation of the HCFAC.

This Notice is not intended to be the exclusive method by which HUD will solicit nominations and expressions of interest to identify qualified candidates. However, all nominees for membership on the HCFAC will be subject to the same application process and evaluation criteria.

IV. Selection and Meetings.

Member selections and appointments will be made by the Secretary and will be based on the Nominee’s qualifications to contribute to the accomplishment of the HCFAC’s objectives. Membership on the Committee is personal to the appointee and committee members serve at the discretion of the Secretary.

The estimated number of in-person meetings anticipated within a fiscal year is two (2) in Washington DC or elsewhere in the United States. Additional meetings may be held as

needed to render advice to the Deputy Assistant Secretary for OHC. The meetings may use electronic communication technologies for attendance.

All meetings will be announced by notice in the **Federal Register**. Announcements of the meetings may be made using other methods as well.

Dated: June 22, 2020.

Len Wolfson,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2020–13952 Filed 6–26–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6221–N–01]

Availability of HUD’s Fiscal Year 2018 Service Contract Inventory

AGENCY: Office of the Chief Procurement Officer, HUD.

ACTION: Notice.

SUMMARY: This notice advises of the availability to the public of service contracts awarded by HUD in Fiscal Year (FY) 2018.

FOR FURTHER INFORMATION CONTACT: Dr. Akinsola A. Ajayi, Assistant Chief Procurement Officer, Office of Policy, Systems and Risk Management, Office of the Chief Procurement Officer, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; telephone number 202–402–6728 (this is not a toll-free number) and fax number 202–708–8912. Persons with hearing or speech impairments may access Mr. Lawrence E. Chambers telephone number via TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

In accordance with section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117, approved December 16, 2009, 123 Stat. 3034, at 123 Stat. 3216), HUD is publishing this notice to advise the public of service contracts inventories that were awarded in FY 2018. The inventories are organized by function and are reviewed by HUD to better understand how contracted services are used to support HUD’s primary mission, to insure HUD maintains an adequate workforce for operations and to research whether contractors were performing inherently governmental functions.

The inventory was developed in accordance with guidance issued on November 5, 2010 by the Office of Management and Budget’s Office

¹ See, <https://www.whitehouse.gov/the-press-office/presidential-memorandum-lobbyists-agency-boards-and-commissions> (“Lobbyist on Agency Boards and Commissions”); see also 76 FR 61756 (“Final Guidance on Appointments of Lobbyists to Federal Boards and Commissions”); and 79 FR 47482 (“Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Boards, and Commissions”).

² See 79 FR 4782 (“Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Boards, and Commissions”) (clarifying that federally registered lobbyists may not serve on advisory committee, board, or Commission in an “individual capacity.”)

Federal Procurement Policy (OFPP). OFPP's guidance is available at <https://obamawhitehouse.archives.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf>.

HUD has posted its inventory and a summary of the inventory on the Department of Housing and Urban Development's homepage at the following link: http://portal.hud.gov/hudportal/HUD?src=/program_offices/cpo/sci.

Dated: June 24, 2020.

Akinsola A. Ajayi,

Assistant Chief Procurement Officer.

[FR Doc. 2020-13932 Filed 6-26-20; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6220-N-01]

Availability of HUD's Fiscal Year 2017 Service Contract Inventory

AGENCY: Office of the Chief Procurement Officer, HUD.

ACTION: Notice.

SUMMARY: This notice advises of the availability to the public of service contracts awarded by HUD in Fiscal Year (FY) 2017.

FOR FURTHER INFORMATION CONTACT: Dr. Akinsola A. Ajayi, Assistant Chief Procurement Officer, Office of Policy, Systems and Risk Management, Office of the Chief Procurement Officer, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; telephone number 202-402-6728 (this is not a toll-free number) and fax number 202-708-8912. Persons with hearing or speech impairments may access Mr. Lawrence E. Chambers telephone number via TTY by calling the toll-free Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION:

In accordance with section 743 of Division C of the Consolidated Appropriations Act of 2010 (Public Law 111-117, approved December 16, 2009, 123 Stat. 3034, at 123 Stat. 3216), HUD is publishing this notice to advise the public of service contracts inventories that were awarded in FY 2017. The inventories are organized by function and are reviewed by HUD to better understand how contracted services are used to support HUD's primary mission, to insure HUD maintains an adequate workforce for operations and to research whether contractors were performing inherently governmental functions.

The inventory was developed in accordance with guidance issued on November 5, 2010 by the Office of Management and Budget's Office Federal Procurement Policy (OFPP). OFPP's guidance is available at <https://obamawhitehouse.archives.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf>.

HUD has posted its inventory and a summary of the inventory on the Department of Housing and Urban Development's homepage at the following link: http://portal.hud.gov/hudportal/HUD?src=/program_offices/cpo/sci.

Dated: June 24, 2020.

Akinsola A. Ajayi,

Assistant Chief Procurement Officer.

[FR Doc. 2020-13925 Filed 6-26-20; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7024-N-26]

30-Day Notice of Proposed Information Collection: Manufactured Home Construction and Safety Standards Act Park Model RV Exemption Notice; OMB Control No. 2502-0616

AGENCY: Office of the Chief of the Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* July 29, 2020.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/StartPrintedPage 15501PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email

Colette Pollard at Colette.Pollard@hud.gov or telephone 202-402-3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on April 10, 2020 at 85 FR 20294

A. Overview of Information Collection

Title of Information Collection: Manufactured Home Construction and Safety Standards Act Park Model RV Exemption Notice.

OMB Approval Number: 2502-0616.

Type of Request: Extension of a currently approved collection.

Form Number: None.

Description of the need for the information and proposed use:

For recreational vehicles that are exempt from HUD regulation as manufactured homes, HUD requires certification with either the American National Standards Institute's (ANSI) standard for Park Model Recreational Vehicles (PMRV), A119.5-15 or the National Fire Protection Association's NFPA 1192, Standard on Recreational Vehicles, 2015 Edition. PMRVs built to ANSI A119.5-15 may exceed the RV exemption's 400 square foot threshold, a manufacturer must post notice in the home that the structure is only designed for recreational purposes and is not designed as a primary residence or for permanent occupancy.

The Recreation Vehicle Industry Association's (RVIA) current seal does not satisfy HUD's standard for the manufacturer's notice. HUD requirements provide specifics regarding the content and prominence of the notice and which requires the notice to be prominently displayed in the unit and delivered to the consumer before the sale transaction is complete, regardless of whether the transaction occurs online or in-person. PMRV manufacturers will satisfy this requirement with two printed sheets of paper per PMRV: one in the kitchen, and one delivered to the consumer before the transaction.

Respondents (i.e. affected public): Business or other for-profit.

Estimated Number of Respondents: 22.

Estimated Number of Responses: 4,000 per annum.

Frequency of Response: Approx. 181.
Average Hours per Response: 20 seconds.

Total Estimated Burden: 22 hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

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

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

(5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: June 19, 2020.

Anna Guido,

*Department Reports Management Officer,
Office of the Chief Information Officer.*

[FR Doc. 2020–13967 Filed 6–26–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[201A2100DD/AAKC001030/A0A501010.999900253G]

Indian Gaming; Tribal-State Class III Gaming Compacts Taking Effect in the State of Oklahoma

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: On April 23, 2020, the Comanche Nation and the Otoe-Missouria Tribe of Indians, respectively,

submitted compacts with the State of Oklahoma governing certain forms of Class III gaming. This notice announces that the Comanche Nation and State of Oklahoma Gaming Compact and the Otoe-Missouria Tribe and State of Oklahoma Gaming Compact are taking effect.

DATES: The compacts take effect June 29, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, paula.hart@bia.gov, (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act (IGRA), Public Law 100–497, 25 U.S.C. 2701 *et seq.*, the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. As required by 25 CFR 293.4, all compacts are subject to review and approval by the Secretary. The Secretary took no action on the Comanche Nation and State of Oklahoma Gaming Compact and the Otoe-Missouria Tribe and State of Oklahoma Gaming Compact within 45 days of their submission. Therefore, the Compacts are considered to have been approved, but only to the extent they are consistent with IGRA. *See* 25 U.S.C. 2710(d)(8)(C).

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2020–13886 Filed 6–26–20; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[201A2100DD/AAKC001030/A0A501010.999900]

HEARTH Act Approval of Fort Belknap Indian Community of the Fort Belknap Reservation of Montana Residential Leasing Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: On June 12, 2020, the Bureau of Indian Affairs (BIA) approved the Fort Belknap Indian Community of the Fort Belknap Reservation (Tribe) leasing regulations under the Helping Expedite and Advance Responsible Tribal Homeownership Act of 2012 (HEARTH Act). With this approval, the Tribe is authorized to enter into residential leases without further BIA approval.

FOR FURTHER INFORMATION CONTACT: Ms. Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, sharelene.roundface@bia.gov, (505) 563–3132.

SUPPLEMENTARY INFORMATION:

I. Summary of the HEARTH Act

The HEARTH Act makes a voluntary, alternative land leasing process available to Tribes, by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. 415. The HEARTH Act authorizes Tribes to negotiate and enter into agricultural and business leases of Tribal trust lands with a primary term of 25 years, and up to two renewal terms of 25 years each, without the approval of the Secretary of the Interior (Secretary). The HEARTH Act also authorizes Tribes to enter into leases for residential, recreational, religious or educational purposes for a primary term of up to 75 years without the approval of the Secretary. Participating Tribes develop Tribal leasing regulations, including an environmental review process, and then must obtain the Secretary's approval of those regulations prior to entering into leases. The HEARTH Act requires the Secretary to approve Tribal regulations if the Tribal regulations are consistent with the Department of the Interior's (Department) leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the HEARTH Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the Tribal regulations for the Fort Belknap Indian Community of the Fort Belknap Reservation of Montana.

II. Federal Preemption of State and Local Taxes

The Department's regulations governing the surface leasing of trust and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests, and activities under the lease are not subject to State and local taxation and may be subject to taxation by the Indian Tribe with jurisdiction. *See* 25 CFR 162.017. As explained further in the preamble to the final regulations, the Federal government has a strong interest in promoting economic development, self-determination, and Tribal sovereignty. 77 FR 72440, 72447–48 (December 5, 2012). The principles supporting the Federal preemption of State law in the field of Indian leasing and the taxation of lease-related interests and activities applies with equal force to leases entered into under

Tribal leasing regulations approved by the Federal government pursuant to the HEARTH Act.

Section 5 of the Indian Reorganization Act, 25 U.S.C. 5108, preempts State and local taxation of permanent improvements on trust land. *Confederated Tribes of the Chehalis Reservation v. Thurston County*, 724 F.3d 1153, 1157 (9th Cir. 2013) (citing *Mescalero Apache Tribe v. Jones*, 411 U.S. 145 (1973)). Similarly, section 5108 preempts State taxation of rent payments by a lessee for leased trust lands, because “tax on the payment of rent is indistinguishable from an impermissible tax on the land.” See *Seminole Tribe of Florida v. Stranburg*, 799 F.3d 1324, 1331, n.8 (11th Cir. 2015). In addition, as explained in the preamble to the revised leasing regulations at 25 CFR part 162, Federal courts have applied a balancing test to determine whether State and local taxation of non-Indians on the reservation is preempted. *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 143 (1980). The *Bracker* balancing test, which is conducted against a backdrop of “traditional notions of Indian self-government,” requires a particularized examination of the relevant State, Federal, and Tribal interests. We hereby adopt the *Bracker* analysis from the preamble to the surface leasing regulations, 77 FR at 72447–48, as supplemented by the analysis below.

The strong Federal and Tribal interests against State and local taxation of improvements, leaseholds, and activities on land leased under the Department’s leasing regulations apply equally to improvements, leaseholds, and activities on land leased pursuant to Tribal leasing regulations approved under the HEARTH Act. Congress’s overarching intent was to “allow Tribes to exercise greater control over their own land, support self-determination, and eliminate bureaucratic delays that stand in the way of homeownership and economic development in Tribal communities.” 158 Cong. Rec. H. 2682 (May 15, 2012). The HEARTH Act was intended to afford Tribes “flexibility to adapt lease terms to suit [their] business and cultural needs” and to “enable [Tribes] to approve leases quickly and efficiently.” H. Rep. 112–427 at 6 (2012).

Assessment of State and local taxes would obstruct these express Federal policies supporting Tribal economic development and self-determination, and also threaten substantial Tribal interests in effective Tribal government, economic self-sufficiency, and territorial autonomy. See *Michigan v. Bay Mills*

Indian Community, 572 U.S. 782, 810 (2014) (Sotomayor, J., concurring) (determining that “[a] key goal of the Federal Government is to render Tribes more self-sufficient, and better positioned to fund their own sovereign functions, rather than relying on Federal funding”). The additional costs of State and local taxation have a chilling effect on potential lessees, as well as on a tribe that, as a result, might refrain from exercising its own sovereign right to impose a Tribal tax to support its infrastructure needs. See *id.* at 810–11 (finding that State and local taxes greatly discourage Tribes from raising tax revenue from the same sources because the imposition of double taxation would impede Tribal economic growth).

Similar to BIA’s surface leasing regulations, Tribal regulations under the HEARTH Act pervasively cover all aspects of leasing. See 25 U.S.C. 415(h)(3)(B)(i) (requiring Tribal regulations be consistent with BIA surface leasing regulations). Furthermore, the Federal government remains involved in the Tribal land leasing process by approving the Tribal leasing regulations in the first instance and providing technical assistance, upon request by a Tribe, for the development of an environmental review process. The Secretary also retains authority to take any necessary actions to remedy violations of a lease or of the Tribal regulations, including terminating the lease or rescinding approval of the Tribal regulations and reassuming lease approval responsibilities. Moreover, the Secretary continues to review, approve, and monitor individual Indian land leases and other types of leases not covered under the Tribal regulations according to the Part 162 regulations.

Accordingly, the Federal and Tribal interests weigh heavily in favor of preemption of State and local taxes on lease-related activities and interests, regardless of whether the lease is governed by Tribal leasing regulations or Part 162. Improvements, activities, and leasehold or possessory interests may be subject to taxation by the Fort Belknap Indian Community of the Fort Belknap Reservation of Montana.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2020–13885 Filed 6–26–20; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[190A2100DD/AAK001030/A0A51010.999900]

Land Acquisitions; San Pasqual Band of Diegueno Mission Indians of California

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Assistant Secretary—Indian Affairs has made a final determination to acquire 29 acres, more or less into trust for the San Pasqual Band of Diegueno Mission Indians of California on May 15, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Sharlene M. Round Face, Bureau of Indian Affairs, Division of Real Estate Services, 1849 C Street NW, MS–4642–MIB, Washington, DC 20240, telephone (202) 208–3615.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by part 209 of the Departmental Manual, and is published to comply with the requirement of 25 CFR 151.12(c)(2)(ii) that notice of the decision to acquire land in trust be promptly published in the **Federal Register**.

On _____, the Assistant Secretary—Indian Affairs issued a decision to accept land in trust for the San Pasqual Band of Diegueno Mission Indians of California under the authority of Section 5 of the Indian Reorganization Act of 1934 (48 Stat. 984).

San Pasqual Band of Diegueno Mission Indians of California, County of San Diego, California

Legal Description Containing 29 Acres, More or Less

Parcel 1

The Southeast quarter of the Northwest quarter of Section 22, Township 11 South, Range 1 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to the United States Government Survey.

Except the Northerly 312.74 feet measured at right angles thereof.

Parcel 2

An easement for road and utility purposes over the Southerly 15 feet of the Northerly 312.74 feet measured at right angles of said Southeast quarter of the Northwest quarter of said Section.

Assessor's Parcel Number: 189–181–13

The above described real property is identified in San Diego County records as Assessor's Parcel Number 189–181–13, containing 29 acres, more or less.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2020–13887 Filed 6–26–20; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[20X.LLAK940000 L141000000.HM0000]

Notice of Identification of Federal Land in Alaska Available for Allotment Selection Under the Alaska Native Veteran Program of 2019

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of identified lands.

SUMMARY: In accordance with the John D. Dingell, Jr., Conservation, Management, and Recreation Act of 2019 (Dingell Act), the Bureau of Land Management (BLM) has identified Federal lands that are available for allotment selection by eligible individuals. By this notice, the BLM is announcing the availability of maps of the lands available for selection by eligible individuals.

ADDRESSES: An interactive map of the land available for selection by eligible individuals can be accessed at <https://arcg.is/1HTTrO>.

FOR FURTHER INFORMATION CONTACT: Paul Krabacher, Alaska Native Veteran Program of 2019 Project Manager by telephone at 907–271–1310 or by mail at 222 West 7th Avenue #13, Anchorage, Alaska 99513. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Mr. Krabacher during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Dingell Act (Pub. L. 116–9, Sec. 1119) requires the BLM to identify Federal lands in the State of Alaska that are vacant, unappropriated, and unreserved, to make available for allotment selection by eligible individuals under the Dingell Act. In accordance with the Dingell Act, the BLM is providing an interactive map of the available Federal lands. An interactive map of available Federal lands can be found at the web address in the **ADDRESSES** section. Lands

available for selection will change on this real-time map as more lands become available and as allotments are applied for over the course of the program.

(Authority: Public Law 116–9)

Ted A. Murphy,

Acting State Director, Alaska.

[FR Doc. 2020–13861 Filed 6–26–20; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK932000 L13100000 PD0000.OMB Control Number 1004–0196]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Oil and Gas Leasing: National Petroleum Reserve-Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Land Management (BLM) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before July 29, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection renewal (ICR) should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Please provide a copy of your comments to Faith Bremner, U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW, Room 2134LM, Washington DC 20240; or by email to fbremner@blm.gov. Please reference Office of Management and Budget (OMB) Control Number 1004–0196 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Wayne Svejnoha at telephone: 907–271–4407, or email: wsvejnoh@blm.gov. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>. 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 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), 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.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on April 9, 2020 (85 FR 19954). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

- (1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;
- (2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: This control number enables the BLM to obtain the information it

needs to meet its responsibilities under the relevant legal provisions of the National Petroleum Reserves Production Act.

Title of Collection: Oil and Gas Leasing: National Petroleum Reserve—Alaska.

OMB Control Number: 1004–0196.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Participants in the oil and gas leasing program within the National Petroleum Reserve-Alaska.

Total Estimated Number of Annual Respondents: 21.

Total Estimated Number of Annual Responses: 21.

Estimated Completion Time per Response: Varies from 15 minutes to 80 hours, depending on the activity.

Total Estimated Number of Annual Burden Hours: 220.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Faith Bremner,

Senior Regulatory Analyst.

[FR Doc. 2020–13894 Filed 6–26–20; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NCR–WHHO–WHHOA1–30405;
PPNCWHHOA1; PPMSPD1Z.YM0000]

Committee for the Preservation of the White House Notice of Public Meeting

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972, the National Park Service (NPS) is hereby giving notice that the Committee for the Preservation of the White House (Committee) will meet as indicated below.

DATES: The meeting will take place on Monday, July 27, 2020. The meeting will begin at 10:00 a.m. until 11:30 a.m. (Eastern). A teleconference may substitute an in-person meeting if public health or safety restrictions are in effect.

ADDRESSES: The meeting will be held at the White House, 1600 Pennsylvania Avenue NW, Washington, DC 20500.

FOR FURTHER INFORMATION CONTACT:

Comments may be provided to: John Stanwich, Executive Secretary, Committee for the Preservation of the White House, 1849 C Street NW, Room #1426, Washington, DC 20240, by telephone (202) 219–0322, or by email ncr_who_superintendent@nps.gov.

SUPPLEMENTARY INFORMATION: The Committee has been established in accordance with Executive Order No. 11145, 3 CFR 184 (1964–1965), as amended. The Committee reports to the President of the United States and advises the Director of the NPS with respect to the discharge of responsibilities for the preservation and interpretation of the museum aspects of the White House pursuant to the Act of September 22, 1961 (Pub. L. 87–286, 75 Stat. 586).

Purpose of the Meeting: The agenda will include policies, goals, and long-range plans. If you plan to attend this meeting, you must register by close of business on Thursday, July 23, 2020. Please contact the Executive Secretary at ncr_who_superintendent@nps.gov or phone (202) 219–0322 to register. Space is limited and requests will be accommodated in the order they are received.

The meeting will be open, but subject to security clearance requirements. The Executive Secretary will contact you directly with the security clearance requirements. Inquiries may be made by calling the Executive Secretary between 9:00 a.m. and 4:00 p.m. weekdays at (202) 219–0322.

Written comments may be sent to the Executive Secretary, Committee for the Preservation of the White House, 1849 C Street NW, Room #1426, Washington, DC 20240. All written comments received will be provided to the Committee.

Public Disclosure of Comments: Before including your address, phone number, email address, or other personal identifying information in your written comments, 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.

(Authority: 5 U.S.C. Appendix 2)

Alma Rippis,

Chief, Office of Policy.

[FR Doc. 2020–13962 Filed 6–26–20; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–451 and 731–TA–1126 (Second Review)]

Lightweight Thermal Paper From China; Determination

On the basis of the record¹ developed in the subject five-year reviews, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that revocation of the countervailing duty and antidumping duty orders on lightweight thermal paper from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on December 2, 2019 (84 FR 66012) and determined on March 6, 2020 that it would conduct expedited reviews (85 FR 29974, May 19, 2020).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on June 23, 2020. The views of the Commission are contained in USITC Publication 5070 (June 2020), entitled *Lightweight Thermal Paper from China: Investigation Nos. 701–TA–451 and 731–TA–1126 (Second Review)*.

By order of the Commission.

Issued: June 23, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–13854 Filed 6–26–20; 8:45 am]

BILLING CODE 7020–02–P

¹ The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

INTERNATIONAL TRADE COMMISSION**[Investigation No. 332–573]****Global Economic Impact of Missing and Low Pesticide Maximum Residue Levels; Extension of Time To File Written Submissions, and Delay in Submitting Volume 2 of the Report****AGENCY:** United States International Trade Commission**ACTION:** Extension of the Deadline for Filing Written Submissions in Connection with Volume 2 of the Report and Extension of the Time for Transmitting Volume 2 of the Report.**SUMMARY:** The Commission has extended the deadline for filing written comments relating to volume 2 of its report from June 5, 2020, to July 31, 2020, and in accordance with a request on behalf of the U.S. Trade Representative (USTR), the Commission will submit volume 2 of its report by January 31, 2021 (delivered Monday, February 1, 2021) instead of by October 31, 2020.**DATES:**

June 30, 2020: Transmittal of volume 1 of the report to the USTR (this date is unchanged)

July 31, 2020: New deadline for filing written submissions relating to volume 2

January 31, 2021: New transmittal date for volume 2 of the Commission's report to the USTR (Delivered Monday, February 1, 2021)

ADDRESSES: All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov/>.**FOR FURTHER INFORMATION CONTACT:**Project Leader Sabina Neumann (volumes 1 and 2) (202–205–3000 or sabina.neumann@usitc.gov) or Deputy Project Leader (volume 2) Brian Daigle (202–205–3458 or brian.daigle@usitc.gov) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or william.gearhart@usitc.gov). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or margaret.olaughlin@usitc.gov). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. Generalinformation concerning the Commission may also be obtained by accessing its website (<https://www.usitc.gov>). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2002.**SUPPLEMENTARY INFORMATION:** The Commission published notice of institution of the above referenced investigation in the **Federal Register** on September 27, 2019 (84 FR 51178, September 27, 2019). The Commission instituted the investigation following receipt of a request from the USTR on August 30, 2019. The USTR asked that the Commission provide its report in two volumes, with volume 1 provided by June 30, 2020, and volume 2 by October 31, 2020. In its notice announcing the investigation, the Commission noted the respective due dates for volumes 1 and 2 of the report, and in connection with volume 2, requested that written submissions be filed with the Commission by June 5, 2020. On May 28, 2020, the Commission received a request on behalf of the U.S. Trade Representative, requesting that the Commission deliver volume 2 of its report by January 31, 2021. That request noted the disruption and technical issues that have arisen with respect to completion of volume 2 of the report due to the COVID–19 pandemic, including with respect to the ability to do travel-related research, and asked that the Commission transmit volume 2 of the report by January 31, 2021 (delivered Monday, February 1, 2021). The Commission still expects to transmit volume 1 of the report to USTR by June 30, 2020, the date indicated in the notice published in the **Federal Register** on April 17, 2020.**Written Submissions:** The Commission has invited interested parties to submit written statements concerning this investigation. All written submissions should be addressed to the Secretary, and should be received no later than 5:15 p.m., July 31, 2020 for matters to be covered by volume 2 of the Commission's report. All written submissions must conform with the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 of the Rules (as further explained in the Commission's *Handbook on Filing Procedures*) requires that interested parties file documents electronically on or before the filing deadline (see the following paragraph for further information regarding confidential business information or "CBI"). Persons with questions regarding electronic filing should contact the Office of the

Secretary, Docket Services Division (202–205–1802). The Commission has waived the requirement in section 201.8(d)(1) of its rules (19 CFR 201.8(d)(1)) that persons filing written submissions must also file paper copies of their written submissions by noon of the next day; accordingly, no paper copies should be filed, nor should copies be filed in any form other than electronic.

Confidential Business Information (CBI): Any submissions that contain CBI must also conform to the requirements of section 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the Rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "non-confidential" version, and that the CBI is clearly identified using brackets. The Commission will make all written submissions, except for those (or portions thereof) containing CBI, available for inspection by interested parties.

In his request letter, the USTR stated that his office intends to make the Commission's report available to the public in its entirety, and he asked that the Commission not include any CBI in the report that it delivers to USTR.

The Commission will not include any of the CBI submitted in the course of this investigation in the report it sends to the USTR. However, all information, including CBI, submitted in this investigation may be disclosed to and used (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission, including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel for cybersecurity purposes. The Commission will not otherwise disclose any CBI in a manner that would reveal the operations of the firm supplying the information.

Summaries of Written Submissions: The Commission intends to publish any summaries of written submissions filed by interested persons. Persons wishing to have a summary of their submission included in the report should include a summary with their written submission, titled "Public Summary," and should mark the summary as having been provided for that purpose. The summary may not exceed 500 words, should be in MSWord format or a format that can be easily converted to MSWord, and

should not include any CBI. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. The Commission will identify the name of the organization furnishing the summary and will include a link to the Commission's Electronic Document Information System (EDIS) where the full written submission can be found.

By order of the Commission.

Issued: June 23, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020-13883 Filed 6-26-20; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

FY 2017 and FY 18 Service Contracts Inventory and Inventory Supplement

AGENCY: Justice Management Division, Department of Justice.

ACTION: Notice.

SUMMARY: In accordance with Section 743 of Division C of the FY 2010 Consolidated Appropriations Act, the Department of Justice is publishing this notice to advise the public of the availability of its FY 2017 and FY 18 Service Contracts Inventory and Inventory Supplement. The inventory includes service contract actions over \$25,000 that were awarded in Fiscal Year (FY) 2017 and 2018. The inventory supplement includes information collected from contractors on the amount invoiced and direct labor hours expended for covered service contracts. The Department of Justice analyzes this data for the purpose of determining whether its contract labor is being used in an effective and appropriate manner and if the mix of federal employees and contractors in the agency is effectively balanced. The inventory and supplement do not include contractor proprietary or sensitive information. The FY 2017 and 2018 Service Contract Inventory and Inventory Supplements are provided at the following link: <https://www.justice.gov/jmd/service-contract-inventory>.

FOR FURTHER INFORMATION CONTACT: Kevin Doss, Office of Acquisition Management, Justice Management Division, U.S. Department of Justice, Washington, DC 20530; Phone: 202-616-3758; Email: Kevin.Doss@usdoj.gov

Dated: June 24, 2020.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2020-13979 Filed 6-26-20; 8:45 am]

BILLING CODE 4410-DH-P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility to Apply for Trade Adjustment Assistance

In accordance with the Section 223 (19 U.S.C. 2273) of the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) ("Act"), as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act ("TAA") for workers by (TA-W) number issued during the period of *May 1, 2020 through May 31, 2020*. (This Notice primarily follows the language of the Trade Act. In some places however, changes such as the inclusion of subheadings, a reorganization of language, or "and," "or," or other words are added for clarification.)

Section 222(a)—Workers of a Primary Firm

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements under Section 222(a) of the Act (19 U.S.C. 2272(a)) must be met, as follows:

(1) The first criterion (set forth in Section 222(a)(1) of the Act, 19 U.S.C. 2272(a)(1)) is that a significant number or proportion of the workers in such workers' firm (or "such firm") have become totally or partially separated, or are threatened to become totally or partially separated; AND (2(A) or 2(B) below)

(2) The second criterion (set forth in Section 222(a)(2) of the Act, 19 U.S.C. 2272(a)(2)) may be satisfied by either (A) the Increased Imports Path, or (B) the Shift in Production or Services to a Foreign Country Path/Acquisition of Articles or Services from a Foreign Country Path, as follows:

(A) Increased Imports Path:

(i) the sales or production, or both, of such firm, have decreased absolutely; AND (ii and iii below)

(ii)(I) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased; OR

(II)(aa) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased; OR

(II)(bb) imports of articles like or directly competitive with articles which are produced directly using the services supplied by such firm, have increased; OR

(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased; AND

(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; OR

(B) Shift in Production or Services to a Foreign Country Path OR Acquisition of Articles or Services from a Foreign Country Path:

(i) (I) there has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; OR

(II) such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm; AND

(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

Section 222(b)—Adversely Affected Secondary Workers

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(b) of the Act (19 U.S.C. 2272(b)) must be met, as follows:

(1) A significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated; AND

(2) the workers' firm is a supplier or downstream producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act (19 U.S.C. 2272(a)), and such supply or production is related to the article or

service that was the basis for such certification (as defined in subsection 222(c)(3) and (4) of the Act (19 U.S.C. 2272(c)(3) and (4)); AND

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; OR

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).

Section 222(e)—Firms Identified by the International Trade Commission

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(e) of the Act (19 U.S.C. 2272(e)) must be met, by following criteria (1), (2), and (3) as follows:

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1) of the Act (19 U.S.C. 2252(b)(1)); OR

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1) of the Act (19 U.S.C. 2436(b)(1)); OR

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A)); AND

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) of the Trade Act (19 U.S.C. 2252(f)(1)) with respect to the affirmative determination described in paragraph (1)(A) is published in the

Federal Register under section 202(f)(3) (19 U.S.C. 2252(f)(3)); OR

(B) notice of an affirmative determination described in subparagraph (B) or (C) of paragraph (1) is published in the **Federal Register**; AND

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); OR

(B) notwithstanding section 223(b) of the Act (19 U.S.C. 2273(b)), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (Increased Imports Path) of the Trade Act have been met.

TA-W No.	Subject firm	Location	Impact date
94,615	Marketlink, Inc. dba Allied Global, Allied Global, LLC	Johnstown, PA	March 13, 2018.
95,045	Pharmaceutics International, Inc., Medix, Augmentation	Hunt Valley, MD	March 2, 2020.
95,068	Matthew Warren Spring, Plant 5, MW Industries, Inc., Peak Community Services.	Logansport, IN	August 12, 2018.
95,080	Celestial Softwear Inc., Lunar logic	Eugene, OR	August 15, 2018.
95,243	Wholesome Harvest Baking, LLC, Bimbo Bakeries Inc., Grupo Bimbo, S.A.B. de C.V.	Richmond, CA	October 1, 2018.
95,301	Ball Metalpack, LLC, 1st Employment, Aerotek	Springdale, AR	October 18, 2018.
95,312	US Synthetic Corporation, Apergy Corporation, Elwood Staffing ...	Orem, UT	October 21, 2018.
95,661	OEMMCCO, Inc., Staffing Solutions	Kenosha, WI	February 5, 2019.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (Shift in Production or

Services to a Foreign Country Path or Acquisition of Articles or Services from

a Foreign Country Path) of the Trade Act have been met.

TA-W No.	Subject firm	Location	Impact date
94,715	Zinus, Customer Service Division, Prologistix, Randstand	Tracy, CA	April 8, 2018.
94,717	Zinus, Customer Service Division, Sheridan, Remedy	Summerville, SC	April 8, 2018.
95,300	VML, LLC, Razor Holdings, TEK Systems, ECCO Select, RiverPoint, KForce, etc.	Kansas City, MO	October 17, 2018.
95,432	State Street Bank & Trust Co., Transfer Agency Division, State Street Corporation, ZeroChaos.	North Quincy, MA	November 27, 2018.
95,543	Rite Aid Headquarters Corporation, Technology Services Computer Operations, Rite Aid Corporation.	Lancaster, CA	January 7, 2019.
95,586	P&F Systems, a division of Dieomatic Incorporated, Magna International Inc.	Auburn Hills, MI	January 21, 2019.
95,667	Daimler Gastonia Components and Logistics LLC, Daimler AG	Gastonia, NC	March 10, 2019.
95,870	Frontier Communications, Network Translations Organization Team, Frontier Communications Corporation.	Rochester, NY	April 6, 2019.
95,918	Vitro Flat Glass LLC, Meadville, Line 2 Production, Vitro Assets, M-Ploy Temporaries, Inc.	Cochran, PA	May 8, 2019.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers

are certified eligible to apply for TAA) of the Trade Act have been met.

TA-W No.	Subject firm	Location	Impact date
94,921	North American Mold Technology LLC, Piedmont Precision Machine Co., Inc.	Danville, VA	June 20, 2018.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility

criteria for TAA have not been met for the reasons specified.

The investigation revealed that the requirements of Trade Act section 222 (a)(1) and (b)(1) (significant worker

total/partial separation or threat of total/partial separation), or (e) (firms identified by the International Trade Commission), have not been met.

TA-W No.	Subject firm	Location	Impact date
95,568	Optum Technology, Enterprise Enablement Platform Services, IT Services Desk, etc.	San Francisco, CA.	

The investigation revealed that the criteria under paragraphs (a)(2)(A)(i) (decline in sales or production, or both), or (a)(2)(B) (shift in production or services to a foreign country or

acquisition of articles or services from a foreign country), (b)(2) (supplier to a firm whose workers are certified eligible to apply for TAA or downstream producer to a firm whose workers are

certified eligible to apply for TAA), and (e) (International Trade Commission) of section 222 have not been met.

TA-W No.	Subject firm	Location	Impact date
94,667	Welspun Tubular, LLC, Welspun Pipes, Welspun Global Trade, Elite Workforce Management, etc.	Little Rock, AR.	
95,477	Concentrix CVG Corporation	Tampa, FL.	
95,626	Thomas L. Cardella & Associates, Inc	Alamogordo, NM.	
95,652	Tripwire, Inc., Belden Inc., Incedo, Inc	Portland, OR.	
95,684	TCS e-Serve International Limited, Tata Consultancy Services, Aerotek, Kelly Services, TekSystems, etc.	Cedar Rapids, IA.	

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports), (a)(2)(B) (shift in production or services to a foreign country or acquisition of articles or

services from a foreign country), (b)(2) (supplier to a firm whose workers are certified eligible to apply for TAA or downstream producer to a firm whose workers are certified eligible to apply

for TAA), and (e) (International Trade Commission) of section 222 have not been met.

TA-W No.	Subject firm	Location	Impact date
94,886	Times Fiber Communications, Amphenol Corporation	Chatham, VA.	
94,937	Tech Mahindra Americas Inc. for AT&T, Production Validation Testing Team.	Plano, TX.	
94,963	Cablevision System NYC Corporation, Altice USA, Customer Care Center.	Bethpage, NY.	
94,963A	Cablevision System NYC Corporation, Altice USA, Customer Care Center Supervisors.	Jericho, NY.	
94,990	Blackjewel L.L.C./Revelation Energy, LLC, Blackjewel Holdings L.L.C./Revelation Energy Holdings, LLC.	Milton, WV.	
94,990A	Blackjewel L.L.C./Revelation Energy, LLC, Clover Loadout, Blackjewel Holdings L.L.C./Revelation Energy Holdings, LLC.	Bledsoe, KY.	
94,990AA	Blackjewel L.L.C./Revelation Energy, LLC, Eagle Butte Mine, Blackjewel Holdings L.L.C./Revelation Energy Holdings.	Gillette, WY.	
94,990B	Blackjewel L.L.C./Revelation Energy, LLC, Clover Lick Mine, Blackjewel Holdings L.L.C./Revelation Energy Holdings.	Cumberland, KY.	
94,990BB	Blackjewel L.L.C./Revelation Energy, LLC, Belle Ayr Mine, Blackjewel Holdings L.L.C./Revelation Energy Holdings, LLC.	Gillette, WY.	
94,990C	Blackjewel L.L.C./Revelation Energy, LLC, Panther Mine, Blackjewel Holdings L.L.C./Revelation Energy Holdings, LLC.	Cumberland, KY.	
94,990CC	Blackjewel L.L.C./Revelation Energy, LLC, Sunny Knott Office, Blackjewel Holdings L.L.C./Revelation Energy Holdings.	Lackey, KY.	
94,990D	Blackjewel L.L.C./Revelation Energy, LLC, F Seam Mine, Blackjewel Holdings L.L.C./Revelation Energy Holdings, LLC.	Cumberland, KY.	
94,990DD	Blackjewel L.L.C./Revelation Energy, LLC, Andover Office, Blackjewel Holdings L.L.C./Revelation Energy Holdings, LLC.	Appalachia, VA.	
94,990E	Blackjewel L.L.C./Revelation Energy, LLC, Cave Branch Prep Plant, Blackjewel Holdings/Revelation Energy Holdings.	Cumberland, KY.	
94,990EE	Blackjewel L.L.C./Revelation Energy, LLC, Honaker Shop, Blackjewel Holdings L.L.C./Revelation Energy Holdings, LLC.	Honaker, VA.	

TA-W No.	Subject firm	Location	Impact date
94,990F	Blackjewel L.L.C./Revelation Energy, LLC, Clover Fork Mine, Blackjewel Holdings L.L.C./Revelation Energy Holdings.	Evarts, KY.	
94,990G	Blackjewel L.L.C./Revelation Energy, LLC, Huff Creek Mine, Blackjewel Holdings L.L.C./Revelation Energy Holdings, LLC.	Evarts, KY.	
94,990H	Blackjewel L.L.C./Revelation Energy, LLC, Kellioka Mine, Blackjewel Holdings L.L.C./Revelation Energy Holdings, LLC.	Evarts, KY.	
94,990I	Blackjewel L.L.C./Revelation Energy, LLC, Shamrock Prep Plant, Blackjewel Holdings L.L.C./Revelation Energy Holdings.	Helton, KY.	
94,990J	Blackjewel L.L.C./Revelation Energy, LLC, Cumberland River Surface Mine, Blackjewel Holdings L.L.C., etc..	Partridge, KY.	
94,990K	Blackjewel L.L.C./Revelation Energy, LLC, North Fork No. 6, Blackjewel Holdings L.L.C./Revelation Energy Holdings.	Partridge, KY.	
94,990L	Blackjewel L.L.C./Revelation Energy, LLC, Beechfork Mine, Blackjewel Holdings L.L.C./Revelation Energy Holdings, LLC.	Helton, KY.	
94,990M	Blackjewel L.L.C./Revelation Energy, LLC, Straight Creek Prep Plant, Blackjewel Holdings/Revelation Energy Holdings.	Stoney Fork, KY.	
94,990N	Blackjewel L.L.C./Revelation Energy, LLC, Big Laurel, Blackjewel Holdings L.L.C./Revelation Energy Holdings, LLC.	Appalachia, VA.	
94,990O	Blackjewel L.L.C./Revelation Energy, LLC, Pigeon Creek Processing, Blackjewel Holdings/Revelation Energy Holdings.	Appalachia, VA.	
94,990P	Blackjewel L.L.C./Revelation Energy, LLC, Osaka Mine, Blackjewel Holdings L.L.C./Revelation Energy Holdings, LLC.	Appalachia, VA.	
94,990Q	Blackjewel L.L.C./Revelation Energy, LLC, Flat Rock Prep Plant, Blackjewel Holdings/Revelation Energy Holdings.	Honaker, VA.	
94,990R	Blackjewel L.L.C./Revelation Energy, LLC, Tiller #1 Mine, Blackjewel Holdings L.L.C./Revelation Energy Holdings, LLC.	Jewell Ridge, VA.	
94,990S	Blackjewel L.L.C./Revelation Energy, LLC, Tiller #2 Mine, Blackjewel Holdings L.L.C./Revelation Energy Holdings, LLC.	Jewell Ridge, VA.	
94,990T	Blackjewel L.L.C./Revelation Energy, LLC, 3446 Jewell Valley Road, Blackjewel Holdings/Revelation Energy Holdings.	Jewell Ridge, VA.	
94,990U	Blackjewel L.L.C./Revelation Energy, LLC, Red Ash Mine, Blackjewel Holdings L.L.C./Revelation Energy Holdings, LLC.	Jewell Ridge, VA.	
94,990V	Blackjewel L.L.C./Revelation Energy, LLC, Raven Dock, Blackjewel Holdings L.L.C./Revelation Energy Holdings, LLC.	Raven, VA.	
94,990W	Blackjewel L.L.C./Revelation Energy, LLC, Lone Mountain Processing, Blackjewel Holdings/Revelation Energy Holdings.	St. Charles, VA.	
94,990X	Blackjewel L.L.C./Revelation Energy, LLC, Tunnel Mine, Blackjewel Holdings L.L.C./Revelation Energy Holdings, LLC.	St. Charles, VA.	
94,990Y	Blackjewel L.L.C./Revelation Energy, LLC, Pax Surface Mine, Blackjewel Holdings L.L.C./Revelation Energy Holdings.	Scarbro, WV	
94,990Z	Blackjewel L.L.C./Revelation Energy, LLC, Central Distribution Center, Blackjewel Holdings/Revelation Energy Holdings.	Gillette, WY.	
95,096	Infor (US), Inc., Information Technology aka Business Innovation Department, Infor, Inc..	Saint Paul, MN.	
95,131	Jewell Attachments, LLC, Paladin Brands Group, Inc., Aerotek, Kelly Services.	Portland, OR.	
95,261	CCU Coal and Construction, LLC, Corporate Office	Coshocton, OH.	
95,261A	CCU Coal and Construction, LLC, Buckingham Mine and Wash Plant.	Glouster, OH.	
95,261B	CCU Coal and Construction, LLC, Bellaire Dock	Bellaire, OH.	
95,261C	CCU Coal and Construction, LLC, Shugert North Mine	Bethesda, OH.	
95,261D	CCU Coal and Construction, LLC, Buttermilk	Flushing, OH.	
95,261E	CCU Coal and Construction, LLC, Egypt Valley Wildlife Mine	Flushing, OH.	
95,261F	CCU Coal and Construction, LLC, Barb Tipple	Conesville, OH.	
95,261G	CCU Coal and Construction, LLC, Cadiz Office	Cadiz, OH.	
95,261H	CCU Coal and Construction, LLC, Sandy Ridge Mine	Cadiz, OH.	
95,261I	CCU Coal and Construction, LLC, Harrison Mine	Cadiz, OH.	
95,261J	CCU Coal and Construction, LLC, Ellis	Rayland, OH.	
95,261K	CCU Coal and Construction, LLC, Zanesville Warehouse	Zanesville, OH.	
95,261L	CCU Coal and Construction, LLC, Cannon	Crooksville, OH.	
95,261M	CCU Coal and Construction, LLC, New Lexington	New Lexington, OH.	
95,261N	CCU Coal and Construction, LLC, Avondale	Roseville, OH.	
95,261O	CCU Coal and Construction, LLC, Pero	East Canton, OH.	
95,261P	CCU Coal and Construction, LLC, Garrett	Gnadenhutten, OH.	
95,261Q	CCU Coal and Construction, LLC, Midvale Mine	New Philadelphia, OH.	
95,261R	CCU Coal and Construction, LLC, Strasburg Wash Plant, Shop, and Slurry Pit.	Strasburg, OH.	
95,261S	CCU Coal and Construction, LLC, Muskie Train	Conesville, OH.	
95,261T	CCU Coal and Construction, LLC, Conesville Wash Plant	Conesville, OH.	
95,261U	CCU Coal and Construction, LLC, Hunt	Newcomerstown, OH.	
95,261V	CCU Coal and Construction, LLC, Harrah	Cadiz, OH.	
95,279	Cisco System Inc.	Lawrenceville, GA.	
95,387	Concentrix CVG Corporation	Heathrow, FL.	

TA-W No.	Subject firm	Location	Impact date
95,429	General Logistics Systems US, Inc., Operations Division, Delivery Driver Group, Robert Half International, etc..	San Ramon, CA.	
95,530	Halliburton Energy Services, Inc., Halliburton Company	El Reno, OK.	
95,533	The Semling-Menke Company, Inc., ABS Employment Group, QPS Employment Group.	Merrill, WI.	
95,602	Legacy Supply Chain Services, Tri-Starr Management Services, Surge Staffing, Diverse Staffing.	Jeffersonville, IN.	
95,624	PVH Corp. Warehouse, Logistic Services Division, PVH Corp.	Brinkley, AR.	
95,648	Hexcel Corporation, Keltia Recruitment/Keltia Design, Kelly Services, Moseley Technical, etc..	Kent, WA.	
95,648A	Hexcel Corporation, Express Employment Professionals, TERRA Staffing Group.	Burlington, WA.	
95,669	CoxCom LLC, Cox Communications New England, Retail Sales, Atrium Staffing Services.	West Warwick, RI.	
95,849	Con-Vey, LLC, Con-Vey Holding, Inc., Elwood Staffing, Express Employment Professionals.	Roseburg, OR.	
95,884	Marvell Semiconductor, Inc., Marvell Technology Group, GlobalFoundries US, ASIC North, CYIENT, etc.	Essex Junction, VT.	

Determinations Terminating Investigations of Petitions for Trade Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and

on the Department's website, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA-W No.	Subject firm	Location	Impact date
95,853	Oracle America, Oracle America Global Business Unit	Reston, VA.	
95,912	Boilermakers Local 105	Piketon, OH.	

The following determinations terminating investigations were issued

in cases where the petition regarding the investigation has been deemed invalid.

TA-W No.	Subject firm	Location	Impact date
94,834	EmblemHealth Services Co., LLC Inc., Provider Operations Department.	New York, NY.	
95,783	UnitedHealth Group, Corporate Affairs, Communications, Translations and Interpretation, etc..	Minnetonka, MN.	

The following determinations terminating investigations were issued because the worker group on whose

behalf the petition was filed is covered under an existing certification.

TA-W No.	Subject firm	Location	Impact date
95,003	API Technologies	Windber, PA.	
95,555	SMX Staffing a/k/a Staff Management, Newel Brands, Rubbermaid Commercial Products.	Winchester, VA.	
95,690	Phoenix Technical Solutions, Inc. and Phoenix Laser Solutions, General Electric Company, GE Transportation Parts, Transportation Division.	Erie, PA.	

I hereby certify that the aforementioned determinations were issued during the period of *May 1, 2020 through May 31, 2020*. These determinations are available on the Department's website https://www.doleta.gov/tradeact/petitioners/taq_search_form.cfm under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888-365-6822.

Signed at Washington, DC, this 8th day of June 2020.

Hope D. Kinglock,
Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2020-13966 Filed 6-26-20; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

Post-Initial Determinations Regarding Eligibility To Apply for Trade Adjustment Assistance

In accordance with Sections 223 and 284 (19 U.S.C. 2273 and 2395) of the Trade Act of 1974 (19 U.S.C. 2271, *et*

seq.) (“Act”), as amended, the Department of Labor herein presents Notice of Affirmative Determinations Regarding Application for Reconsideration, summaries of Negative Determinations Regarding Applications for Reconsideration, summaries of Revised Certifications of Eligibility, summaries of Revised Determinations (after Affirmative Determination Regarding Application for Reconsideration), summaries of Negative Determinations (after Affirmative Determination Regarding

Application for Reconsideration), summaries of Revised Determinations (on remand from the Court of International Trade), and summaries of Negative Determinations (on remand from the Court of International Trade) regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (“TAA”) for workers by (TA–W) number issued during the period of *May 1, 2020 through May 31, 2020*. Post-initial determinations are issued after a petition has been certified or denied. A post-initial determination may revise a

certification, or modify or affirm a negative determination.

Revised Certifications of Eligibility

The following revised certifications of eligibility to apply for TAA have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination, and the reason(s) for the determination.

The following revisions have been issued.

TA–W No.	Subject firm	Location	Impact date	Reason(s)
93,917	General Electric Company	Erie, PA	6/24/2018	Worker Group Clarification.
93,917A	Association of Corporate Counsel America Chicago Chapter, Capgemini, etc..	Erie, PA	6/22/2017	Worker Group Clarification.
94,820	Kitron Technologies Inc.	Windber, PA	5/15/2018	Technical Error.
94,840	Lufkin Industries, LLC	Lufkin, TX	5/23/2018	Wages Reported Under Different FEIN Number.
95,041	Newell Brands	Winchester, VA	8/1/2018	Worker Group Clarification.

Revised Determinations (after Affirmative Determination Regarding Application for Reconsideration)

The following revised determinations on reconsideration, certifying eligibility to apply for TAA, have been issued. The

date following the company name and location of each determination references the impact date for all workers of such determination.

The following revised determinations on reconsideration, certifying eligibility

to apply for TAA, have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
94,889	Xerox Corporation	Wilsonville, OR	6/10/2018
95,149	AIG PC Global Services, Inc.	New York, NY	9/5/2018

I hereby certify that the aforementioned determinations were issued during the period of *May 1, 2020 through May 31, 2020*. These determinations are available on the Department’s website https://www.doleta.gov/tradeact/petitioners/taa_search_form.cfm under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC this 8th day of June 2020.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2020–13969 Filed 6–26–20; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (“the Act”) and are identified in the Appendix to this notice. Upon receipt of these petitions, the Administrator of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing provided such request is filed in writing with the Administrator, Office of Trade Adjustment Assistance, at the address shown below, no later than July 9, 2020.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Administrator, Office of Trade Adjustment Assistance, at the address shown below, not later than July 9, 2020.

The petitions filed in this case are available for inspection at the Office of the Administrator, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW, Washington, DC 20210.

Signed at Washington, DC, this 8th day of
June 2020.

Hope D. Kinglock,

*Certifying Officer, Office of Trade Adjustment
Assistance.*

APPENDIX

43 TAA PETITIONS INSTITUTED BETWEEN 5/1/20 AND 5/31/20

TA-W	Subject firm (petitioners)	Location	Date of in- stitution	Date of peti- tion
95906	BFGoodrich (State/One-Stop)	Woodburn, IN	05/01/20	04/30/20
95907	Larco, Inc. (Company)	Crossett, AR	05/01/20	04/30/20
95908	Zurn Industries (Union)	Erie, PA	05/04/20	05/01/20
95909	Harsco Environmental (Union)	Koppel, PA	05/05/20	05/04/20
95910	US Steel Lone Star Tubular Ops.(Union)	Lone Star, TX	05/05/20	05/04/20
95911	US Steel Wheeling Machine Parts (Union)	Hughes Springs, TX	05/05/20	05/04/20
95912	Boilermakers Local 105 (State/One-Stop)	Piketon, OH	05/06/20	05/05/20
95913	JCPenney (State/One-Stop)	Plano, TX	05/06/20	05/05/20
95914	Boeing Commercial Aircraft (Union)	Tukwila, WA	05/07/20	05/05/20
95915	Borbet Alabama Inc. (Company)	Auburn, AL	05/07/20	05/06/20
95916	Integrated Global Services, Inc. (State/One-Stop)	Richmond, VA	05/07/20	05/06/20
95917	United States Steel Corporation, Minnesota Ore Operations (State/ One-Stop).	Keewatin, MN	05/08/20	05/07/20
95918	Vitro Flat Glass LLC (Company)	Cochran, PA	05/11/20	05/08/20
95919	The Doe Run Company (Company)	Herculaneum, MO	05/14/20	05/13/20
95920	Parallon—Richmond Shared Service Center (State/One-Stop)	Richmond, VA	05/14/20	05/13/20
95921	U.S. Bank (State/One-Stop)	St Paul, MN	05/14/20	05/13/20
95922	Caterpillar Inc. (State/One-Stop)	Victoria, TX	05/15/20	05/14/20
95923	Eaton Corporation (Company)	Kings Mountain, NC	05/15/20	05/14/20
95924	US Steel Corporation—Granite City Works (State/One-Stop)	Granite City, IL	05/15/20	05/14/20
95925	Alcoa Intalco Works (Union)	Ferndale, WA	05/18/20	05/11/20
95926	EMPX a XBS Company (Workers)	Syracuse, NY	05/19/20	05/18/20
95927	United Conveyor (State/One-Stop)	Melrose Park, IL	05/19/20	05/18/20
95928	Electrolux Home Products, Inc. (State/One-Stop)	Saint Cloud, MN	05/22/20	05/21/20
95929	GGI Solutions, e2ip Technologies (State/One-Stop)	Bigfork, MN	05/22/20	05/21/20
95930	Halliburton Energy Services (Workers)	Duncan, OK	05/22/20	05/21/20
95931	Royal Engineered Composites (State/One-Stop)	Minden, NE	05/22/20	05/21/20
95932	Triumph Aerospace Structures, Tulsa (Parent Co. is Triumph Group) (State/One-Stop).	Tulsa, OK	05/22/20	05/21/20
95933	Umicore Autocat USA, Inc. (Company)	Catoosa, OK	05/22/20	05/21/20
95934	United Conveyor (State/One-Stop)	Waukegan, IL	05/22/20	05/21/20
95935	The Boeing Company (Company)	Chicago, IL	05/27/20	05/21/20
95936	Center Industries (State/One-Stop)	Wichita, KS	05/27/20	05/12/20
95937	Panasonic Solar North America (Company)	Buffalo, NY	05/27/20	03/06/20
95938	The Corsi Group Inc. (State/One-Stop)	Indianapolis, IN	05/28/20	05/27/20
95939	DXC Technology (Workers)	Tysons, VA	05/28/20	05/27/20
95940	FXI, Inc. (State/One-Stop)	Auburn, IN	05/28/20	05/27/20
95941	Halliburton Energy Services (Workers)	Duncan, OK	05/28/20	05/27/20
95942	Pittsburgh Glass Works, LLC dba Vitro Automotive Glass (Company) ..	Ewart, MI	05/28/20	05/27/20
95943	Woodcraft Industries (State/One-Stop)	Molalla, OR	05/28/20	05/27/20
95944	Crystal Cabinet Works, Inc. (State/One-Stop)	Princeton, MN	05/29/20	05/28/20
95945	Freeport-McMoRan Chino Mines Company (State/One-Stop)	Vanadium, NM	05/29/20	05/28/20
95946	GenOn Holdings, LLC (Company)	Dickerson, MD	05/29/20	05/28/20
95947	Standard Locknut, LLC (State/One-Stop)	Westfield, IN	05/29/20	05/28/20
95948	TPX Communications (State/One-Stop)	Saint Louis, MO	05/29/20	05/28/20

[FR Doc.2020-13968 Filed 6-26-20; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR**Occupational Safety and Health Administration**

[Docket No. OSHA-2010-0030]

Ionizing Radiation Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.**ACTION:** Request for public comments.**SUMMARY:** OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements contained in the Ionizing Radiation Standard.**DATES:** Comments must be submitted (postmarked, sent, or received) by August 28, 2020.**ADDRESSES:***Electronically:* You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.*Facsimile:* If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693-1648.*Mail, hand delivery, express mail, messenger, or courier service:* When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA-2010-0030, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the OSHA Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.*Instructions:* All submissions must include the agency name and the OSHA docket number (OSHA-2010-0030) for the Information Collection Request (ICR). All comments, including any personal information you provide, such as social security numbers and dates of birth, are placed in the public docket without change, and may be made available online at <http://www.regulations.gov>. For further information on submitting comments,see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.***Docket:* To read or download comments or other material in the docket, go to <http://www.regulations.gov> or the OSHA Docket Office at the above address. All documents in the docket (including this Federal Register notice) are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at (202) 693-2222 to obtain a copy of the ICR.**FOR FURTHER INFORMATION CONTACT:**

Seleda Perryman or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, telephone (202) 693-2222.

SUPPLEMENTARY INFORMATION:**I. Background**

The Department of Labor, as part of a continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance process to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, the reporting burden (time and costs) is minimal, the collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act, or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires OSHA to obtain such information with a minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining said information (29 U.S.C. 657).

The basic purpose of the information collection requirements in the Ionizing Radiation Standard is to document that employers are providing their workers with protection from ionizing radiation exposure. The information collection requirements contained in the Standard

include: Monitoring worker exposure to ionizing radiation, posting caution signs at radiation areas, reporting worker overexposures to OSHA, maintaining exposure records, and providing exposure records to current and former workers.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply—for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting an adjustment increase of 7,064 burden hours from 52,016 to 59,080 hours. This increase is the result of an estimated increase of 5% in the number of potentially exposed employees. The total estimated number of establishments affected by the regulation decreased from 13,849 to 13,135, a total adjustment of 714 less establishments, based on updated data.

Type of Review: Extension of a currently approved collection.

Title: Ionizing Radiation Standard (29 CFR 1910.1096).

OMB Control Number: 1218-0103.

Affected Public: Business or other for-profits.

Number of Respondents: 13,135.

Frequency: On Occasion; Quarterly; Annually; Immediately; Within 24 hours; Within 30 days.

Average Time Per Response: Varies.

Estimated Number of Responses: 337,279.

Estimated Total Burden Hours: 59,080.

Estimated Cost (Operation and Maintenance): \$8,892,917.

IV. Public Participation—Submission of Comments on This Notice and internet Access to Comments and Submissions

You may submit comments in response to this document as follows:

- (1) Electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal;
- (2) by facsimile (fax); or
- (3) by hard copy. All comments, attachments, and other

material must identify the agency name and the OSHA docket number (Docket No. OSHA–2010–0030) for the ICR. You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify electronic comments by your name, date, and the docket number so that the agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350; TTY (877) 889–5627.

Comments and submissions are posted without change at <http://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the <http://www.regulations.gov> index, some information (e.g., copyrighted material) is not publicly available to read or download through this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the <http://www.regulations.gov> website to submit comments and access the docket is available at the website's "User Tips" link. Contact the OSHA Docket Office for information about materials not available through the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on June 23, 2020.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2020–13965 Filed 6–26–20; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2020–051]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Correction

AGENCY: National Archives and Records Administration (NARA).

ACTION: Correction notice.

SUMMARY: We previously published notice that we were proposing to request Office of Management and Budget (OMB) approval to renew NARA information collections 3095–0035, which relates to copier-to-copier reproduction requests, and 3095–0038 and 3095–0039, which relate to requests for documents or information from former military personnel and medical records, military personnel and family medical records, or personnel and medical records of former Federal civilian employees. However, while the body of the notice properly identified and discussed these information collections, the summary paragraph erroneously identified a different set of information collections, for which we had previously published notice. We are publishing this correction notice to clarify that commenters should comment only on the information collections identified here and in the body of the previous notice, not the NATF forms identified in the previous summary.

DATES: OMB must receive written comments on the information collections discussed in the notice published June 16, 2020 (85 FR 36425), on or before July 16, 2020, as stated in the previous notice.

ADDRESSES: Send comments and recommendations for the proposed information collections to www.reginfo.gov/public/do/PRAMain. Find these particular information collections by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Contact Tamee Fechhelm, Paperwork Reduction Act Officer, by email at tamee.fechhelm@nara.gov or by telephone at 301.837.1694 with requests for additional information or copies of the proposed information collection and supporting statement.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we invite the general public and other Federal agencies to comment on proposed information collections. We published a notice of

proposed collection for these information collections on April 8, 2020 (85 FR 19778) and we received no comments. We therefore published notice of our intent to submit the collections to OMB and to request public comments (submit to OMB), on June 16, 2020 (85 FR 36425). We are submitting the described information collections to OMB for approval.

Correction

In FR Doc. 2020–12890, beginning on page 36425 in the issue of June 16, 2020, in the third column on page 36425, correct the **SUMMARY** as discussed in the **SUMMARY** in this document.

Kimberly Keravuori,
Federal Register Liaison.

[FR Doc. 2020–13833 Filed 6–26–20; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Submission for OMB Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice.

SUMMARY: The National Credit Union Administration (NCUA) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 on or after the date of publication of this notice.

DATES: Comments should be received on or before July 29, 2020 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Copies of the submission may be obtained by contacting Dawn Wolfgang at (703) 548–2279, emailing PRAComments@ncua.gov, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0134.

Title: Account Based Disclosures in Connection with 12 CFR part 707 (Truth in Savings).

Abstract: The Truth in Savings Act (TISA), 12 U.S.C. 4301 *et seq.*, requires depository institutions to disclose to consumers certain information, including interest rates, dividends, bonuses, and fees associated with their deposit accounts and accompanying services. TISA also directed the National Credit Union Administration (NCUA) to promulgate a TISA regulation governing credit unions. Section 272(b) of TISA, 12 U.S.C. 4311(b), mandated that the NCUA regulation be “substantially similar” to those of the Consumer Financial Protection Bureau (CFPB), but the NCUA may take into account the unique nature of credit unions and the limitations under which they may pay dividends.

To implement TISA, the NCUA published its TISA regulation, 12 CFR part 707, which applies to all credit unions whose accounts are either insured by, or eligible to be insured by, the National Credit Union Share Insurance Fund, except for any credit union that has been designated as a corporate credit union and any non-automated credit union that has \$2 million or less in assets (together, “credit unions”). In addition, the advertising rules apply to any person who advertises an account offered by a credit union. The NCUA’s TISA regulation requires credit unions to disclose fees, dividend rates and other terms concerning accounts to members or potential members before they open accounts.

The NCUA’s TISA regulation requires credit unions to provide specific disclosures when an account is opened, when a disclosed term changes or a term account is close to renewal, on periodic statements of account activity, in advertisements, and upon a member’s or potential member’s request. Credit unions that provide periodic statements are required to include information about fees imposed, the annual percentage yield (APY) earned during those statement periods, and other account terms. The requirements for creating and disseminating account disclosures, change in terms notices, term share renewal notices, statement disclosures, and advertising disclosures are necessary to implement TISA’s purpose of providing the public with information that will permit informed comparisons of accounts at financial institutions.

The collection of information pursuant to Part 707 is triggered by specific events and disclosures and must be provided to consumers within the time periods established under the regulation. Credit unions must retain

evidence of compliance for a minimum of two years after the disclosures are required to be made or an action is required to be taken.

Type of Review: Extension of a currently approved collection.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 373,870.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on June 23, 2020.

Dated: June 24, 2020.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2020–13904 Filed 6–26–20; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Notice of Proposed Information Collection Requests: 2021–2023 IMLS Native American Library Services: Enhancement Grants Program Notice of Funding Opportunity

AGENCY: Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

ACTION: Notice, request for comments on this collection of information.

SUMMARY: The Institute of Museum and Library Services (IMLS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act. This pre-clearance consultation program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. By this notice, IMLS is soliciting comments concerning a plan to offer a grant program targeted to the needs of Native American libraries, aligned to the updated IMLS strategic plan for FY2018–2022—IMLS Native American Library Services: Enhancement Grants. A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before August 21, 2020.

ADDRESSES: Send comments to: Dr. Connie Bodner, Director of Grants Policy and Management, Institute of Museum and Library Services, 955 L’Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Dr. Bodner can be reached by telephone at 202–653–4636, or by email at cbodner@imls.gov, or by teletype (TTY/TDD) for persons with hearing difficulty at 202–653–4614.

FOR FURTHER INFORMATION CONTACT: For a copy of the documents contact: Anthony Smith, Associate Deputy Director, Office of Library Services, Institute of Museum and Library Services, 955 L’Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Mr. Smith can be reached by telephone: 202–653–4716, or by email at asmith@imls.gov, or by teletype (TTY/TDD) for persons with hearing difficulty at 202–653–4614.

SUPPLEMENTARY INFORMATION:

I. Background

The Institute of Museum and Library Services is the primary source of federal support for the nation’s libraries and museums. We advance, support, and empower America’s museums, libraries, and related organizations through grant making, research, and policy development. Our vision is a nation where museums and libraries work together to transform the lives of individuals and communities. To learn more, visit www.imls.gov.

II. Current Actions

Native American Enhancement Grants support existing library operations and maintain core library services, particularly as they relate to the following goals in the Museum and Library Services Act (20 U.S.C. 9141).

1. Expanding services for learning and access to information and educational resources in a variety of formats (including new and emerging technology), in all types of libraries, for individuals of all ages in order to support such individuals’ need for education, lifelong learning, workforce development, economic and business development, health information, critical thinking skills, digital library skills, and financial literacy and other types of literacy skills.

2. Establishing or enhancing electronic and other linkages and improved coordination among and between libraries and entities, as described in 20 U.S.C. 9134(b)(6), for

the purpose of improving the quality of and access to library and information services.

3. Providing training and professional development, including continuing education, to enhance the skills of the current library workforce and leadership, and advance the delivery of library and information services; and enhancing efforts to recruit future professionals, including those from diverse and underrepresented backgrounds, to the field of library and information services.

4. Developing public and private partnerships with other agencies, tribes, and community-based organizations.

5. Targeting library services to individuals of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to individuals with limited functional literacy or information skills.

6. Targeting library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with 42 U.S.C. 9902(2)) applicable to a family of the size involved.

7. Developing library services that provide all users access to information through local, State, regional, national, and international collaborations and networks.

8. Carrying out other activities consistent with the purposes of the Library Services and Technology subchapter of the IMLS statute (20 U.S.C. 9121).

Indian tribes are eligible to apply for funding under the Native American Library Services Enhancement Grant program. Entities such as libraries, schools, tribal colleges, or departments of education are not eligible applicants, although they may be involved in the administration of this program and their staff may serve as project directors in partnership with an eligible applicant.

For purposes of funding under this program, "Indian tribe" means any tribe, band, nation, or other organized group or community, including any Alaska native village, regional corporation, or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*)), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. A list of eligible

entities is available from the Bureau of Indian Affairs.

To be eligible for this program an applicant must be able to document an existing library that meets, at a minimum, three basic criteria: (1) Regularly scheduled hours, (2) staff, and (3) materials available for library users.

This action is to renew the forms and instructions for the Notice of Funding Opportunity for the next three years.

IMLS is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques, or other forms of information technology (e.g., permitting electronic submissions of responses).

Agency: Institute of Museum and Library Services.

Title: 2021–2023 IMLS Native American Basic Library Program Notice of Funding Opportunity.

OMB Number: 3137–0110.

Frequency: Once per year.

Affected Public: American Indian tribes recognized by the Secretary of the Interior.

Number of Respondents: 51.

Estimated Average Burden per Response: 40 hours.

Estimated Total Annual Burden: 1,360 hours.

Total Annualized capital/startup costs: N/A.

Total Annual costs: \$30,661.20.

Public Comments Invited: Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance of this information collection.

Dated: June 23, 2020.

Kim Miller,

*Senior Grants Management Specialist,
Institute of Museum and Library Services.*

[FR Doc. 2020–13836 Filed 6–26–20; 8:45 am]

BILLING CODE 7036–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020–183 and CP2020–207]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 1, 2020.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT:

David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance

with the requirements of 39 CFR 3011.301.¹

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s)*: MC2020–183 and CP2020–207; *Filing Title*: USPS Request to Add Priority Mail Contract 630 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: June 23, 2020; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative*: Curtis E. Kidd; *Comments Due*: July 1, 2020.

This Notice will be published in the **Federal Register**.

Erica A. Barker,
Secretary.

[FR Doc. 2020–13921 Filed 6–26–20; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

International Product Change—Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: *Date of notice:* June 29, 2020.

¹ See Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 11, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 2 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2020–157 and CP2020–173.

Joshua J. Hofer,

Attorney, Federal Compliance.

[FR Doc. 2020–13848 Filed 6–26–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

International Product Change—Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: *Date of notice:* June 29, 2020.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 15, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 5 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2020–170 and CP2020–193.

Joshua J. Hofer,

Attorney, Federal Compliance.

[FR Doc. 2020–13849 Filed 6–26–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

International Product Change—International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add an International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: *Date of notice:* June 29, 2020.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 15, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 3 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2020–162 and CP2020–185.

Joshua J. Hofer,

Attorney, Federal Compliance.

[FR Doc. 2020–13841 Filed 6–26–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

International Product Change—International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add an International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service contract to the list of Negotiated Service Agreements in the

Competitive Product List in the Mail Classification Schedule.

DATES: *Date of notice:* June 29, 2020.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 15, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 9 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2020–178 and CP2020–202.

Joshua J. Hofer,

Attorney, Federal Compliance.

[FR Doc. 2020–13844 Filed 6–26–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

International Product Change—International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add an International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: *Date of notice:* June 29, 2020.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 15, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 5 to Competitive Product List*. Documents

are available at www.prc.gov, Docket Nos. MC2020–166 and CP2020–189.

Joshua J. Hofer,

Attorney, Federal Compliance.

[FR Doc. 2020–13842 Filed 6–26–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

International Product Change—International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service With Reseller Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add an International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: *Date of notice:* June 29, 2020.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 15, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 2 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2020–169 and CP2020–192.

Joshua J. Hofer,

Attorney, Federal Compliance.

[FR Doc. 2020–13845 Filed 6–26–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

International Product Change—International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add an International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: *Date of notice:* June 29, 2020.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 15, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 7 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2020–168 and CP2020–191.

Joshua J. Hofer,

Attorney, Federal Compliance.

[FR Doc. 2020–13843 Filed 6–26–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

International Product Change—International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service With Reseller Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add an International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: *Date of notice:* June 29, 2020.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby

gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 15, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 4 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2020–177 and CP2020–201.

Joshua J. Hofer,

Attorney, Federal Compliance.

[FR Doc. 2020–13846 Filed 6–26–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

International Product Change— International Priority Airmail Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add an International Priority Airmail contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: *Date of notice:* June 29, 2020.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 15, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add International Priority Airmail Contract 1 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2020–164 and CP2020–187.

Joshua J. Hofer,

Attorney, Federal Compliance.

[FR Doc. 2020–13839 Filed 6–26–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

International Product Change— International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service With Reseller Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add an International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: *Date of notice:* June 29, 2020.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 15, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 2 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2020–175 and CP2020–199.

Joshua J. Hofer,

Attorney, Federal Compliance.

[FR Doc. 2020–13847 Filed 6–26–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

International Product Change— International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add an International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: *Date of notice:* June 29, 2020.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 12, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 1 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2020–159 and CP2020–177.

Joshua J. Hofer,

Attorney, Federal Compliance.

[FR Doc. 2020–13840 Filed 6–26–20; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89137; File No. SR–
NASDAQ–2020–035]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Nasdaq General 7 (Consolidated Audit Trail Compliance)

June 23, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on June 22, 2020, The Nasdaq Stock Market LLC (“Nasdaq” 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 Nasdaq General, the Exchange’s compliance rule (“Compliance Rule”) regarding the National Market System Plan Governing the Consolidated Audit Trail (the “CAT NMS Plan” or “Plan”)³ to be consistent with certain exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems.

The text of the proposed rule change is available on the Exchange’s website at

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the Compliance Rule.

<http://nasdaq.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend General 7, the Compliance Rule regarding the CAT NMS Plan, to be consistent with certain exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems. As described more fully below, the proposed rule change would make the following changes to the Compliance Rule:

- Add additional data elements to the consolidated audit trail ("CAT") reporting requirements for Industry Members to facilitate the retirement of the Financial Industry Regulatory Authority, Inc.'s ("FINRA") Order Audit Trail System ("OATS");
- Add additional data elements related to OTC Equity Securities that FINRA currently receives from alternative trading systems ("ATSs") that trade OTC Equity Securities for regulatory oversight purposes to the CAT reporting requirements for Industry Members;
- Implement a phased approach for Industry Member reporting to the CAT ("Phased Reporting");
- To the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, revise the timestamp granularity requirement to require such Industry Member to record and report Industry Member Data to the Central Repository with time stamps in such finer increment up to nanoseconds;
- Require Introducing Industry Members (as defined below) to comply

with the requirements of the CAT NMS Plan applicable to Small Industry Members;

- Revise the CAT reporting requirements so Industry Members would not be required to report to the Central Repository dates of birth, "individual tax payer identification number ("ITIN")/social security number ("SSN")" (collectively, referred to as "SSNs") or account numbers; and
- Revise the CAT reporting requirements regarding cancelled trades and SRO-Assigned Market Participant Identifiers of clearing brokers, if applicable, in connection with order executions, as such information will be available from FINRA's trade reports submitted to the CAT.

i. CAT-OATS Data Gaps

The Participants have worked to identify gaps between data reported to existing systems and data to be reported to the CAT to "ensure that by the time Industry Members are required to report to the CAT, the CAT will include all data elements necessary to facilitate the rapid retirement of duplicative systems."⁴ As a result of this process, the Participants identified several data elements that must be included in the CAT reporting requirements before existing systems can be retired. In particular, the Participants identified certain data elements that are required by OATS, but not currently enumerated in the CAT NMS Plan. Accordingly, the Exchange proposes to amend its Compliance Rule to include these OATS data elements in the CAT. Each of such OATS data elements are discussed below. With the addition of these OATS data elements to the CAT, the CAT will have the data elements necessary to retire OATS.

A. Information Barrier Identification

The FINRA OATS rules require OATS Reporting Members⁵ to record the identification of information barriers for certain order events, including when an order is received or originated, transmitted to a department within the OATS Reporting Member, and when it is modified. The Participants propose to amend the Compliance Rule to incorporate these requirements into the CAT.

Specifically, FINRA Rule 7440(b)(20) requires a FINRA OATS Reporting

Member to record the following when an order is received or originated: "if the member is relying on the exception provided in Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member where the order was received or originated."⁶ The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS-CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(vii) to General 7, Section 3, which would require Industry Members to record and report to the Central Repository, for original receipt or origination of an order, "the unique identification of any appropriate information barriers in place at the department within the Industry Member where the order was received or originated."

In addition, FINRA Rule 7440(c)(1) states that "[w]hen a Reporting Member transmits an order to a department within the member, the Reporting Member shall record: . . . (H) if the member is relying on the exception provided in Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member to which the order was transmitted." The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS-CAT data gap, the Exchange proposes to revise paragraph (a)(1)(B)(vi) of General 7, Section 3 to require, for the routing of an order, if routed internally at the Industry Member, "the unique identification of any appropriate information barriers in place at the department within the Industry Member to which the order was transmitted."

FINRA Rule 7440(c)(2)(B) and 7440(c)(4)(B) require an OATS Reporting Member that receives an order transmitted from another member to report the unique identification of any appropriate information barriers in place at the department within the member to which the order was transmitted. The Compliance Rule not require Industry Members to report such information barrier information. To address this OATS-CAT data gap, the Exchange proposes to add new paragraph (a)(1)(C)(vii) to General 7, Section 3, which would require Industry Members to record and report to the Central Repository, for the receipt of an order that has been routed, "the unique identification of any appropriate

⁴ Letter from Participants to Brent J. Fields, Secretary, SEC, re: File Number 4-698; Notice of Filing of the National Market System Plan Governing the Consolidated Audit Trail (September 23, 2016) at 21 ("Participants' Response to Comments") (available at <https://www.sec.gov/comments/4-698/4698-32.pdf>).

⁵ An OATS "Reporting Member" is defined in FINRA Rule 7410(o).

⁶ FINRA Rule 5320 prohibits trading ahead of customer orders.

information barriers in place at the department within the Industry Member which received the order.”

FINRA Rule 7440(d)(1) requires an OATS Reporting Member that modifies or receives a modification to the terms of an order to report the unique identification of any appropriate information barriers in place at the department within the member to which the modification was originated or received. The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(D)(vii) to General 7, Section 3, which would require Industry Members to record and report to the Central Repository, if the order is modified or cancelled, “the unique identification of any appropriate information barriers in place at the department within the Industry Member which received or originated the modification.”

B. Reporting Requirements for ATSs

Under FINRA Rule 4554, ATSs that receive orders in NMS stocks are required to report certain order information to OATS, which FINRA uses to reconstruct ATS order books and perform order-based surveillance, including layering, spoofing, and mid-point pricing manipulation surveillance.⁷ The Participants believe that Industry Members operating ATSs—whether such ATS trades NMS stocks or OTC Equity Securities—should likewise be required to report this information to the CAT. Because ATSs that trade NMS stocks are already recording this information and reporting it to OATS, the Participants believe that reporting the same information to the CAT should impose little burden on these ATSs. Moreover, including this information in the CAT is also necessary for FINRA to be able to retire the OATS system. The Participants similarly believe that obtaining the same information from ATSs that trade OTC Equity Securities will be important for purposes of reconstructing ATS order books and surveillance. Accordingly, the Exchange proposes to add to the data reporting requirements in the Compliance Rule the reporting requirements for ATSs in FINRA Rule 4554,⁸ but to expand such requirements

so that they are applicable to all ATSs rather than solely to ATSs that trade NMS stocks.

(i) New Definition

The Exchange proposes to add a definition of “ATS” to new paragraph (d) of General 7, Section 1 to facilitate the addition to the CAT of the reporting requirements for ATSs set forth in FINRA Rule 4554. The Exchange proposes to define an “ATS” to mean “an alternative trading system, as defined in Rule 300(a)(1) of Regulation ATS under the Exchange Act.”

(ii) ATS Order Type

FINRA Rule 4554(b)(5) requires the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

A unique identifier for each order type offered by the ATS. An ATS must provide FINRA with (i) a list of all of its order types 20 days before such order types become effective and (ii) any changes to its order types 20 days before such changes become effective. An identifier shall not be required for market and limit orders that have no other special handling instructions.

The Compliance Rule does not require Industry Members to report such order type information to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate these requirements into four new provisions to the Compliance Rule: Paragraphs (a)(1)(A)(xi)(1), (a)(1)(C)(x)(1), (a)(1)(D)(ix)(1) and (a)(2)(D) of General 7, Section 3.

Proposed paragraph (a)(1)(A)(xi)(1) of General 7, Section 3 would require an Industry Member that operates an ATS to record and report to the Central Repository for the original receipt or origination of an order “the ATS’s unique identifier for the order type of the order.” Proposed paragraph (a)(1)(C)(x)(1) of General 7, Section 3 would require an Industry Member that operates an ATS to record and report to the Central Repository for the receipt of an order that has been routed “the ATS’s unique identifier for the order type of the order.” Proposed paragraph (a)(1)(D)(ix)(1) of General 7, Section 3 would require an Industry Member that operates an ATS to record and report to

the Central Repository if the order is modified or cancelled “the ATS’s unique identifier for the order type of the order.” Furthermore, as with the requirements in FINRA Rule 4554(b)(5), proposed paragraph (a)(2)(D) of General 7, Section 3 would state that:

An Industry Member that operates an ATS must provide to the Central Repository: (1) A list of all of its order types twenty (20) days before such order types become effective; and (2) any changes to its order types twenty (20) days before such changes become effective. An identifier shall not be required for market and limit orders that have no other special handling instructions.

(iii) National Best Bid and Offer

FINRA Rules 4554(b)(6) and (7) require the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

(6) The NBBO (or relevant reference price) in effect at the time of order receipt and the timestamp of when the ATS recorded the effective NBBO (or relevant reference price); and

(7) Identification of the market data feed used by the ATS to record the NBBO (or other reference price) for purposes of subparagraph (6). If for any reason, the ATS uses an alternative feed than what was reported on its ATS data submission, the ATS must notify FINRA of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Similarly, FINRA Rule 4554(c) requires the following information to be recorded and reported to FINRA by ATSs when reporting the execution of an order to OATS:

(1) The NBBO (or relevant reference price) in effect at the time of order execution;

(2) The timestamp of when the ATS recorded the effective NBBO (or relevant reference price); and

(3) Identification of the market data feed used by the ATS to record the NBBO (or other reference price) for purposes of subparagraph (1). If for any reason, the ATS uses an alternative feed than what was reported on its ATS data submission, the ATS must notify FINRA of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

The Compliance Rule does not require Industry Members to report such NBBO information to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate these requirements into four new provisions to the Compliance Rule: (a)(1)(A)(xi)(2)–(3), (a)(1)(C)(x)(2)–(3),

⁷ See FINRA Regulatory Notice 16–28 (August 2016).

⁸ FINRA Rule 4554 was approved by the SEC on May 10, 2016, while the CAT NMS Plan was pending with the Commission. See Securities Exchange Act Release No. 77798 (May 10, 2016), 81 FR 30395 (May 16, 2016) (Order Approving SR–FINRA–2016–010). As noted in the Participants’

Response to Comments, throughout the process of developing the Plan, the Participants worked to keep the gap analyses for OATS, electronic blue sheets, and the CAT up-to-date, which included adding data fields related to the tick size pilot and ATS order book amendments to the OATS rules. See Participants’ Response to Comments at 21. However, due to the timing of the expiration of the tick size pilot, the Participants decided not to include those data elements into the CAT NMS Plan.

(a)(1)(D)(ix)(2)–(3) and (a)(1)(E)(viii)(1)–(2) of General 7, Section 3.

Specifically, proposed paragraph (a)(1)(A)(xi)(2)–(3) of General 7, Section 3 would require an Industry Member that operates an ATS to record and report to the Central Repository the following information when reporting the original receipt or origination of order:

(2) the National Best Bid and National Best Offer (or relevant reference price) at the time of order receipt or origination, and the date and time at which the ATS recorded such National Best Bid and National Best Offer (or relevant reference price);

(3) the identification of the market data feed used by the ATS to record the National Best Bid and National Best Offer (or relevant reference price) for purposes of subparagraph (xi)(2). If for any reason the ATS uses an alternative market data feed than what was reported on its ATS data submission, the ATS must provide notice to the Central Repository of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Similarly, proposed paragraphs (a)(1)(C)(x)(2)–(3), (a)(1)(D)(ix)(2)–(3) and (a)(1)(E)(viii)(1)–(2) of General 7, Section 3 would require an Industry Member that operates an ATS to record and report to the Central Repository the same information when reporting receipt of an order that has been routed, when reporting if the order is modified or cancelled, and when an order has been executed, respectively.

(iv) Sequence Numbers

FINRA Rule 4554(d) states that “[f]or all OATS-reportable event types, all ATSs must record and report to FINRA the sequence number assigned to the order event by the ATS’s matching engine.” The Compliance Rule does not require Industry Members to report ATS sequence numbers to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate this requirement regarding ATS sequence numbers into each of the Reportable Events for the CAT. Specifically, the Exchange proposes to add proposed paragraph (a)(1)(A)(xi)(4) to General 7, Section 3, which would require an Industry Member that operates an ATS to record and report to the Central Repository “the sequence number assigned to the receipt or origination of the order by the ATS’s matching engine.” The Exchange proposes to add proposed paragraph (a)(1)(B)(viii) to General 7, Section 3, which would require an Industry Member that operates an ATS to record and report to the Central Repository “the sequence number assigned to the

routing of the order by the ATS’s matching engine.” The Exchange also proposes to add proposed paragraph (a)(1)(C)(x)(4) to General 7, Section 3, which would require an Industry Member that operates an ATS to record and report to the Central Repository “the sequence number assigned to the receipt of the order by the ATS’s matching engine.” In addition, the Exchange proposes to add proposed paragraph (a)(1)(D)(ix)(4) to General 7, Section 3, which would require an Industry Member that operates an ATS to record and report to the Central Repository “the sequence number assigned to the modification or cancellation of the order by the ATS’s matching engine.” Finally, the Exchange proposes to add proposed paragraph (a)(1)(E)(viii)(3) to General 7, Section 3, which would require an Industry Member that operates an ATS to record and report to the Central Repository “the sequence number assigned to the execution of the order by the ATS’s matching engine.”

(v) Modification or Cancellation of Orders by ATSs

FINRA Rule 4554(f) states that “[f]or an ATS that displays subscriber orders, each time the ATS’s matching engine re-prices a displayed order or changes the display quantity of a displayed order, the ATS must report to OATS the time of such modification,” and “the applicable new display price or size.” The Exchange proposes adding a comparable requirement into new paragraph (a)(1)(D)(ix)(5) to General 7, Section 3. Specifically, proposed new paragraph (a)(1)(D)(ix)(5) of General 7, Section 3 would require an Industry Member that operates an ATS to report to the Central Repository, if the order is modified or cancelled, “each time the ATS’s matching engine re-prices an order or changes the quantity of an order,” the ATS must report to the Central Repository “the time of such modification, and the applicable new price or size.” Proposed paragraph (a)(1)(D)(ix)(5) of General 7, Section 3 would apply to all ATSs, not just ATSs that display orders.

(vi) Display of Subscriber Orders

FINRA Rule 4554(b)(1) requires the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

Whether the ATS displays subscriber orders outside the ATS (other than to alternative trading system employees). If an ATS does display subscriber orders outside the ATS (other than to alternative trading system employees), indicate whether the order is displayed to subscribers only or

through publicly disseminated quotation data);

The Compliance Rule does not require Industry Members to report to the CAT such information about the displaying of subscriber orders. The Exchange proposes to add comparable requirements into proposed paragraphs (a)(1)(A)(xi)(5) and (a)(1)(C)(x)(5) of General 7, Section 3. Specifically, proposed paragraph (a)(1)(A)(xi)(5) would require an Industry Member that operates an ATS to report to the Central Repository, for the original receipt or origination of an order,

whether the ATS displays subscriber orders outside the ATS (other than to alternative trading system employees). If an ATS does display subscriber orders outside the ATS (other than to alternative trading system employees), indicate whether the order is displayed to subscribers only or through publicly disseminated quotation data.

Similarly, proposed paragraph (a)(1)(C)(x)(5) of General 7, Section 3 would require an Industry Member that operates an ATS to record and report to the Central Repository the same information when reporting receipt of an order that has been routed.

C. Customer Instruction Flag

FINRA Rule 7440(b)(14) requires a FINRA OATS Reporting Member to record the following when an order is received or originated: “any request by a customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.” The Compliance Rule does not require Industry Members to report to the CAT such a customer instruction flag. To address this OATS–CAT data gap, the Exchange proposes to add paragraph (a)(1)(A)(viii) to General 7, Section 3, which would require Industry Members to record and report to the Central Repository, for original receipt or origination of an order, “any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.” The Exchange also proposes to add paragraph (a)(1)(C)(ix) to General 7, Section 3, which would require Industry Members to record and report to the Central Repository, for the receipt of an order that has been routed, “any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.”

FINRA Rule 7440(d)(1) requires an OATS Reporting Member that modifies or receives a modification of an order to report the customer instruction flag. The Compliance Rule does not require Industry Members to report such a customer instruction flag. To address

this OATS–CAT data gap, the Exchange proposes to add paragraph (a)(1)(D)(viii) to General 7, Section 3, which would require Industry Members to record and report to the Central Repository, if the order is modified or cancelled, “any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.”

D. Department Type

FINRA Rules 7440(b)(4) and (5) require an OATS Reporting Member that receives or originates an order to record the following information: “the identification of any department or the identification number of any terminal where an order is received directly from a customer” and “where the order is originated by a Reporting Member, the identification of the department of the member that originates the order.” The Compliance Rule does not require Industry Members to report to the CAT information regarding the department or terminal where the order is received or originated. To address this OATS–CAT data gap, the Exchange proposes to add paragraph (a)(1)(A)(ix) to General 7, Section 3, which would require Industry Members to record and report to the Central Repository upon the original receipt or origination of an order “the nature of the department or desk that originated the order, or received the order from a Customer.”

Similarly, per FINRA Rules 7440(c)(2)(B) and (4)(B), when an OATS Reporting Member receives an order that has been transmitted by another Member, the receiving OATS Reporting Member is required to record the information required in 7440(b)(4) and (5) described above as applicable. The Compliance Rule does not require Industry Members to report to the CAT information regarding the department that received an order. To address this OATS–CAT data gap, the Exchange propose to add paragraph (a)(1)(C)(viii) to General 7, Section 3, which would require Industry Members to record and report to the Central Repository upon the receipt of an order that has been routed “the nature of the department or desk that received the order.”

E. Account Holder Type

FINRA Rule 7440(b)(18) requires an OATS Reporting Member that receives or originates an order to record the following information: “the type of account, *i.e.*, retail, wholesale, employee, proprietary, or any other type of account designated by FINRA, for which the order is submitted.” The Compliance Rule does not require Industry Members to report to the CAT

information regarding the type of account holder for which the order is submitted. To address this OATS–CAT data gap, the Exchange proposes to add paragraph (a)(1)(A)(x) to General 7, Section 3, which would require Industry Members to record and report to the Central Repository upon the original receipt or origination of an order “the type of account holder for which the order is submitted.”

ii. OTC Equity Securities

The Participants have identified several data elements related to OTC Equity Securities that FINRA currently receives from ATSs that trade OTC Equity Securities for regulatory oversight purposes, but are not currently included in CAT Data. In particular, the Participants identified three data elements that need to be added to the CAT: (1) Bids and offers for OTC Equity Securities; (2) a flag indicating whether a quote in OTC Equity Securities is solicited or unsolicited; and (3) unpriced bids and offers in OTC Equity Securities. The Participants believe that such data will continue to be important for regulators to oversee the OTC Equity Securities market when using the CAT. Moreover, the Participants do not believe that the proposed requirement would burden ATSs because they currently report this information to FINRA and thus the reporting requirement would merely shift from FINRA to the CAT. Accordingly, as discussed below, the Exchange proposes to amend its Compliance Rule to include these data elements.

A. Bids and Offers for OTC Equity Securities

In performing its current regulatory oversight, FINRA receives a data feed of the best bids and offers in OTC Equity Securities from ATSs that trade OTC Equity Securities. These best bid and offer data feeds for OTC Equity Securities are similar to the best bid and offer SIP Data required to be collected by the Central Repository with regard to NMS Securities.⁹ Accordingly, the Exchange proposes to add paragraph (f)(1) to General 7, Section 3 to require the reporting of the best bid and offer data feeds for OTC Equity Securities to the CAT. Specifically, proposed paragraph (f)(1) of General 7, Section 3 would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository “the best bid and best offer for each OTC Equity Security traded on such ATS.”

⁹ Section 6.5(a)(ii) of the CAT NMS Plan.

B. Unsolicited Bid or Offer Flag

FINRA also receives from ATSs that trade OTC Equity Securities an indication whether each bid or offer in OTC Equity Securities on such ATS was solicited or unsolicited. Therefore, the Exchange proposes to add paragraph (f)(2) to General 7, Section 3 to require the reporting to the CAT of an indication as to whether a bid or offer was solicited or unsolicited. Specifically, proposed paragraph (f)(2) of General 7, Section 3 would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository “an indication of whether each bid and offer for OTC Equity Securities was solicited or unsolicited.”

C. Unpriced Bids and Offers

FINRA receives from ATSs that trade OTC Equity Securities certain unpriced bids and offers for each OTC Equity Security traded on the ATS. Therefore, the Exchange proposes to add paragraph (f)(3) to General 7, Section 3, which would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository “the unpriced bids and offers for each OTC Equity Security traded on such ATS.”

iii. Revised Industry Member Reporting Timeline

On February 19, 2020, the Participants filed with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to allow for the implementation of phased reporting to the CAT by Industry Members (“Phased Reporting”).¹⁰ Specifically, in their exemptive request, the Participants requested that the SEC exempt each Participant from the requirement in Section 6.7(a)(v) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require its Industry Members other than Small Industry Members (“Large Industry Members”) to report to the Central Repository Industry Member Data within two years of the Effective Date (that is, by November 15, 2018). In addition, the Participants requested that the SEC exempt each Participant from the requirement in Section 6.7(a)(vi) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require

¹⁰ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Industry Member Reporting Dates (Feb. 19, 2020).

its Small Industry Members¹¹ to report to the Central Repository Industry Member Data within three years of the Effective Date (that is, by November 15, 2019). Correspondingly, the Participants requested that the SEC provide an exemption from the requirement in Section 6.4 of the CAT NMS Plan that “[t]he requirements for Industry Members under this Section 6.4 shall become effective on the second anniversary of the Effective Date in the case of Industry Members other than Small Industry Members, or the third anniversary of the Effective Date in the case of Small Industry Members.” On April 20, 2020, the SEC granted the Participants exemptive relief to implement Phased Reporting, subject to certain timeline changes and conditions.¹²

As a condition to the exemption, each Participant would implement Phased Reporting through its Compliance Rule by requiring:

(1) Its Large Industry Members and its Small Industry Members that are required to record or report information to OATS pursuant to applicable SRO rules (“Small Industry OATS Reporters”) to commence reporting to the Central Repository Phase 2a Industry Member Data by June 22, 2020, and its Small Industry Non-OATS Reporters to commence reporting to the Central Repository Phase 2a Industry Member Data by December 13, 2021;

(2) its Large Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data by July 20, 2020, and its Small Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data by December 13, 2021;

(3) its Large Industry Members to commence reporting to the Central Repository Phase 2c Industry Member Data by April 26, 2021, and its Small Industry Members to commence reporting to the Central Repository Phase 2c Industry Member Data by December 13, 2021;

(4) its Large Industry Members and Small Industry Members to commence reporting to the Central Repository Phase 2d Industry Member Data by December 13, 2021; and

(5) its Large Industry Members and Small Industry Members to commence reporting to the Central Repository Phase 2e Industry Member Data by July 11, 2022.

The full scope of CAT Data required under the CAT NMS Plan will be required to be reported when all five phases of the Phased Reporting have been implemented, subject to any applicable exemptive relief or amendments related to the CAT NMS Plan.

As a further condition to the exemption, each Participant proposes to implement the testing timelines described in Section F below through its Compliance Rule by requiring the following:

(1) Industry Member file submission and data integrity testing for Phases 2a and 2b begins in December 2019.

(2) Industry Member testing of the Reporter Portal, including data integrity error correction tools and data submissions, begins in February 2020.

(3) The Industry Member test environment will be open with intra-firm linkage validations to Industry Members for both Phases 2a and 2b in April 2020.

(4) The Industry Member test environment will be open to Industry Members with inter-firm linkage validations for both Phases 2a and 2b in July 2020.

(5) The Industry Member test environment will be open to Industry Members with Phase 2c functionality (full representative order linkages) in January 2021.

(6) The Industry Member test environment will be open to Industry Members with Phase 2d functionality (manual options orders, complex options orders, and options allocations) in June 2021.

(7) Participant exchanges that support options market making quoting will begin accepting Quote Sent Time on quotes from Industry Members no later than April 2020.

(8) The Industry Member test environment (customer and account information) will be open to Industry Members in January 2022.

As a result, the Exchange proposes to amend its Compliance Rule to be consistent with the exemptive relief to implement Phased Reporting as described below.

A. Phase 2a

In the first phase of Phased Reporting, referred to as Phase 2a, Large Industry Members and Small Industry OATS Reporters would be required to report to the Central Repository “Phase 2a Industry Member Data” by June 22, 2020.¹³ To implement the Phased Reporting for Phase 2a, the Exchange proposes to add paragraph (t)(1) of General 7, Section 1 (previously paragraph (s)) and amend paragraphs (c)(1) and (2) of General 7, Section 12.

(i) Scope of Reporting in Phase 2a

To implement the Phased Reporting with respect to Phase 2a, the Exchange proposes to add a definition of “Phase 2a Industry Member Data” as paragraph (t)(1) of General 7, Section 1. Specifically, the Exchange proposes to define the term “Phase 2a Industry Member Data” as “Industry Member Data required to be reported to the Central Repository commencing in Phase 2a.” Phase 2a Industry Member Data would include Industry Member Data solely related to Eligible Securities that are equities. While the following summarizes categories of Industry Member Data required for Phase 2a, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2a.¹⁴

Phase 2a Industry Member Data would include all events and scenarios covered by OATS. FINRA Rule 7440 describes the OATS requirements for recording information, which includes information related to the receipt or origination of orders, order transmittal, and order modifications, cancellations and executions. Large Industry Members and Small Industry OATS Reporters would be required to submit data to the CAT for these same events and scenarios during Phase 2a. The inclusion of all OATS events and scenarios in the CAT is intended to facilitate the retirement of OATS.

Phase 2a Industry Member Data also would include Reportable Events for:

- Proprietary orders, including market maker orders, for Eligible Securities that are equities;

¹³ Small Industry Members that are not required to record and report information to FINRA’s OATS pursuant to applicable SRO rules (“Small Industry Non-OATS Reporters”) would be required to report to the Central Repository “Phase 2a Industry Member Data” by December 13, 2021, which is approximately seventeen months after Large Industry Members and Small Industry OATS Reporters begin reporting.

¹⁴ The items required to be reported commencing in Phase 2a do not include the items required to be reported in Phase 2c or Phase 2d, as discussed below.

¹¹ See Section 1.1 of the CAT NMS Plan.

¹² See Securities Exchange Act Release No. 88702 (April 20, 2020), 85 FR 23075 (April 24, 2020). As discussed in the SEC’s exemptive order, the Commission granted the Participants conditional exemptive relief from the CAT NMS Plan so that the Compliance Rules may require Phase 2a reporting to commence on June 22, 2020, rather than the April 20, 2020 date set forth in the exemptive request, and Phase 2b reporting to commence on July 20, 2020, rather than the May 18, 2020 date set forth in the exemptive request. As a condition to the exemptive relief, Industry Members who elect to report to the CAT prior to such dates will be permitted to report to the CAT as early as April 20, 2020 for Phase 2a reporting and as early as May 18, 2020 for Phase 2b reporting.

- electronic quotes in listed equity Eligible Securities (*i.e.*, NMS stocks) sent to a national securities exchange or FINRA's Alternative Display Facility ("ADF");

- electronic quotes in unlisted Eligible Securities (*i.e.*, OTC Equity Securities) received by an Industry Member operating an interdealer quotation system ("IDQS"); and
- electronic quotes in unlisted Eligible Securities sent to an IDQS or other quotation system not operated by a Participant or Industry Member.

Phase 2a Industry Member Data would include Firm Designated IDs. During Phase 2a, Industry Members would be required to report Firm Designated IDs to the CAT, as required by paragraphs (a)(1)(A)(i), and (a)(2)(C) of General 7, Section 3. Paragraph (a)(1)(A)(i) of General 7, Section 3 requires Industry Members to submit the Firm Designated ID for the original receipt or origination of an order. Paragraph (a)(2)(C) of General 7, Section 3 requires Industry Members to record and report to the Central Repository, for original receipt and origination of an order, the Firm Designated ID if the order is executed, in whole or in part.

In Phase 2a, Industry Members would be required to report all street side representative orders, including both agency and proprietary orders and mark such orders as representative orders, except in certain limited exceptions as described in the Industry Member Technical Specifications. A representative order is an order originated in a firm owned or controlled account, including principal, agency average price and omnibus accounts, by an Industry Member for the purpose of working one or more customer or client orders.

In Phase 2a, Industry Members would be required to report the link between the street side representative order and the order being represented when: (1) The representative order was originated specifically to represent a single order received either from a customer or another broker-dealer; and (2) there is (a) an existing direct electronic link in the Industry Member's system between the order being represented and the representative order and (b) any resulting executions are immediately and automatically applied to the represented order in the Industry Member's system.

Phase 2a Industry Member Data also would include the manual and Electronic Capture Time for Manual Order Events. Specifically, for each Reportable Event in General 7, Section 3, Industry Members would be required to provide a timestamp pursuant to

General 7, Section 6. General 7, Section 6(b)(i) states that

Each Industry Member may record and report: Manual Order Events to the Central Repository in increments up to and including one second, provided that each Industry Member shall record and report the time when a Manual Order Event has been captured electronically in an order handling and execution system of such Industry Member ("*Electronic Capture Time*") in milliseconds.

Accordingly, for Phase 2a, Industry Members would be required to provide both the manual and Electronic Capture Time for Manual Order Events.¹⁵

Industry Members would be required to report special handling instructions for the original receipt or origination of an order during Phase 2a. In addition, during Phase 2a, Industry Members will be required to report, when routing an order, whether the order was routed as an intermarket sweep order ("ISO"). Industry Members would be required to report special handling instructions on routes other than ISOs in Phase 2c, rather than Phase 2a.

In Phase 2a, Industry Members would not be required to report modifications of a previously routed order in certain limited instances. Specifically, if a trader or trading software modifies a previously routed order, the routing firm is not required to report the modification of an order route if the destination to which the order was routed is a CAT Reporter that is required to report the corresponding order activity. If, however, the order was modified by a Customer or other non-CAT Reporter, and subsequently the routing Industry Members sends a modification to the destination to which the order was originally routed, then the routing Industry Member must report the modification of the order route.¹⁶ In addition, in Phase 2a, Industry Members would not be required to report a cancellation of an order received from a Customer after the order has been executed.

(ii) Timing of Phase 2a Reporting

Pursuant to paragraph (c)(1) of General 7, Section 12, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2a for Large Industry Members, the Exchange proposes to delete the

¹⁵ Industry Members would be required to provide an Electronic Capture Time following the manual capture time only for new orders that are Manual Order Events and, in certain instances, routes that are Manual Order Events. The Electronic Capture Time would not be required for other Manual Order Events.

¹⁶ This approach is comparable to the approach set forth in OATS Compliance FAQ 35.

November 15, 2018 date and to supplement paragraph (c)(1) of General 7, Section 12 with new paragraph (c)(1)(A) of General 7, Section 12, which would state, in relevant part, that "Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: (A) Phase 2a Industry Member Data by June 22, 2020."

Pursuant to paragraph (c)(2) of General 7, Section 12, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2a for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of General 7, Section 12 with new paragraphs (c)(2)(A) and (B) of General 7, Section 12. Proposed paragraph (c)(2)(A) of General 7, Section 12 would state that

Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: (A) Small Industry Members that are required to record or report information to FINRA's Order Audit Trail System pursuant to applicable SRO rules ("*Small Industry OATS Reporter*") to report to the Central Repository Phase 2a Industry Member Data by June 22, 2020.

Proposed paragraph (c)(2)(B) of General 7, Section 12 would state that "Small Industry Members that are not required to record or report information to FINRA's Order Audit Trail System pursuant to applicable SRO rules ("*Small Industry Non-OATS Reporter*") to report to the Central Repository Phase 2a Industry Member Data by December 13, 2021."

B. Phase 2b

In the second phase of the Phased Reporting, referred to as Phase 2b, Large Industry Members would be required to report to the Central Repository "Phase 2b Industry Member Data" by July 20, 2020. Small Industry Members would be required to report to the Central Repository "Phase 2b Industry Member Data" by December 13, 2021, which is approximately seventeen months after Large Industry Members begin reporting such data to the Central Repository. To implement the Phased Reporting for Phase 2b, the Exchange proposes to add paragraph (t)(2) to General 7, Section 1 and amend paragraphs (c)(1) and (2) of General 7, Section 12.

(i) Scope of Phase 2b Reporting

To implement the Phased Reporting with respect to Phase 2b, the Exchange proposes to add a definition of "Phase 2b Industry Member Data" as paragraph

(t)(2) to General 7, Section 1.

Specifically, the Exchange proposes to define the term “Phase 2b Industry Member Data” as “Industry Member Data required to be reported to the Central Repository commencing in Phase 2b.” Phase 2b Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2b. While the following summarizes the categories of Industry Member Data required for Phase 2b, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2b.

Phase 2b Industry Member Data would include Industry Member Data related to Eligible Securities that are options and related to simple electronic option orders, excluding electronic paired option orders.¹⁷ A simple electronic option order is an order to buy or sell a single option that is not related to or dependent on any other transaction for pricing and timing of execution that is either received or routed electronically by an Industry Member. Electronic receipt of an order is defined as the initial receipt of an order by an Industry Member in electronic form in standard format directly into an order handling or execution system. Electronic routing of an order is the routing of an order via electronic medium in standard format from one Industry Member’s order handling or execution system to an exchange or another Industry Member. An electronic paired option order is an electronic option order that contains both the buy and sell side that is routed to another Industry Member or exchange for crossing and/or price improvement as a single transaction on an exchange. Responses to auctions of simple orders and paired simple orders are also reportable in Phase 2b.

Furthermore, combined orders in options would be treated in Phase 2b in the same way as equity representative orders are treated in Phase 2a. A combined order would mean, as permitted by Exchange rules, a single, simple order in Listed Options created by combining individual, simple orders in Listed Options from a customer with the same exchange origin code before routing to an exchange. During Phase 2b, the single combined order sent to an exchange must be reported and marked as a combined order, but the linkage to the underlying orders is not required to be reported until Phase 2d.

¹⁷ The items required to be reported in Phase 2b do not include the items required to be reported in Phase 2d, as discussed below in Section A.4.

(ii) Timing of Phase 2b Reporting

Pursuant to paragraph (c)(1) of General 7, Section 12, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2b for Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of General 7, Section 12 with new paragraph (c)(1)(B) of General 7, Section 12, which would state, in relevant part, that “Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (B) Phase 2b Industry Member Data by July 20, 2020.”

Pursuant to paragraph (c)(2) of General 7, Section 12, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2b for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of General 7, Section 12 with new paragraph (c)(2)(C) of General 7, Section 12, which would state, in relevant part, that “Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Small Industry Members to report to the Central Repository Phase 2b Industry Member Data . . . by December 13, 2021.”

C. Phase 2c

In the third phase of the Phased Reporting, referred to as Phase 2c, Large Industry Members would be required to report to the Central Repository “Phase 2c Industry Member Data” by April 26, 2021. Small Industry Members would be required to report to the Central Repository “Phase 2c Industry Member Data” by December 13, 2021, which is approximately seven months after Large Industry Members begin reporting such data to the Central Repository. To implement the Phased Reporting for Phase 2c, the Exchange proposes to add paragraph (t)(3) to General 7, Section 1 and amend paragraphs (c)(1) and (2) of General 7, Section 12.

(i) Scope of Phase 2c Reporting

To implement the Phased Reporting with respect to Phase 2c, the Exchange proposes to add a definition of “Phase 2c Industry Member Data” as paragraph (t)(3) to General 7, Section 1. Specifically, the Exchange proposes to define the term “Phase 2c Industry Member Data” as “Industry Member

Data required to be reported to the Central Repository commencing in Phase 2c.” Phase 2c Industry Member Data” would be Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data, Phase 2d Industry Member Data or Phase 2e Industry Member Data. Phase 2c Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2c. While the following summarizes the categories of Industry Member Data required for Phase 2c, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2c.

Phase 2c Industry Member Data would include Industry Member Data that is related to Eligible Securities that are equities and that is related to: (1) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (2) quotes in unlisted Eligible Securities sent to an IDQS operated by a CAT Reporter (reportable by the Industry Member sending the quotes) (except for quotes reportable in Phase 2d, as discussed below); (3) electronic quotes in listed equity Eligible Securities (*i.e.*, NMS stocks) that are not sent to a national securities exchange or FINRA’s Alternative Display Facility; (4) reporting changes to client instructions regarding modifications to algorithms; (5) marking as a representative order any order originated to work a customer order in price guarantee scenarios, such as a guaranteed VWAP; (6) flagging rejected external routes to indicate a route was not accepted by the receiving destination; (7) linkage of duplicate electronic messages related to a Manual Order Event between the electronic event and the original manual route; (8) special handling instructions on order route reports (other than the ISO, which is required to be reported in Phase 2a); (9) quote identifier on trade events; (10) reporting of large trader identifiers¹⁸ (“LTID”) (if applicable) for accounts with Reportable Events that are reportable to CAT as of and including Phase 2c; (11) reporting of date account opened or Account Effective Date¹⁹ (as

¹⁸ See definition of “Customer Account Information” in Section 1.1 of the CAT NMS Plan. See also Rule 13h–1 under the Exchange Act.

¹⁹ See definition of “Customer Account Information” and “Account Effective Date” in Section 1.1 of the CAT NMS Plan. Note that the Exchange also proposes to amend the dates in the definitions of “Account Effective Date” and “Customer Account Information” to reflect the Phased Reporting. Specifically, the Exchange proposes to amend paragraph (m)(2) of General 7, Section 1 to replace the references to November 15,

applicable) for accounts and flag indicating the Firm Designated ID type as account or relationship; (12) order effective time for orders that are received by an Industry Member and do not become effective until a later time; (13) the modification or cancellation of an internal route of an order; and (14) linkages to the customer order(s) being represented for all representative order scenarios, including agency average price trades, net trades, aggregated orders, and disconnected Order Management System (“OMS”)—Execution Management System (“EMS”) scenarios, as required in the Industry Member Technical Specifications.²⁰

Phase 2c Industry Member Data also includes electronic quotes that are provided by or received in a CAT Reporter’s order/quote handling or execution systems in Eligible Securities that are equities and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: (1) An equity bid or offer is displayed publicly or has been communicated (a) for listed securities to the Alternative Display Facility (ADF) operated by FINRA; or (b) for unlisted equity securities to an “inter-dealer quotation system” as defined in FINRA Rule 6420(c); or (2) an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing; *i.e.*, no further manual or electronic action is required by the responder providing the quote in order to execute or cause a trade to be executed). With respect to OTC Equity Securities, OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter (other than such an IDQS that does not match and execute orders) are reportable by the Industry Member sending them in Phase 2c. Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.*, FIX) that meets this quote definition (*i.e.*, an equity bid or offer which is accessible electronically by customers or other

market participants and is immediately actionable for execution or routing) would be reportable in Phase 2c.

(ii) Timing of Phase 2c Reporting

Pursuant to paragraph (c)(1) of General 7, Section 12, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2c for Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of General 7, Section 12 with new paragraph (c)(1)(C) of General 7, Section 12, which would state, in relevant part, that “Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Phase 2c Industry Member Data by April 26, 2021.”

Pursuant to paragraph (c)(2) of General 7, Section 12, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2c for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of General 7, Section 12 with new paragraph (c)(2)(C) of General 7, Section 12, which would state, in relevant part, that “Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Small Industry Members to report to the Central Repository . . . Phase 2c Industry Member Data . . . by December 13, 2021.”

D. Phase 2d

In the fourth phase of the Phased Reporting, referred to as Phase 2d, Large Industry Members and Small Industry Members would be required to report to the Central Repository “Phase 2d Industry Member Data” by December 13, 2021. To implement the Phased Reporting for Phase 2d, the Exchange proposes to add paragraph (t)(4) to General 7, Section 1 and amend paragraphs (c)(1) and (2) of General 7, Section 12.

(i) Scope of Phase 2d Reporting

To implement the Phased Reporting with respect to Phase 2d, the Exchange proposes to add a definition of “Phase 2d Industry Member Data” as paragraph (t)(4) to General 7, Section 1. Specifically, the Exchange proposes to define the term “Phase 2d Industry Member Data” as “Industry Member Data required to be reported to the

Central Repository commencing in Phase 2d.”²¹

“Phase 2d Industry Member Data” is Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data, Industry Member Data that is related to Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2c Industry Member Data, and Industry Member Data other than Phase 2e Industry Member Data. Phase 2d Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2d. While the following summarizes the categories of Industry Member Data required for Phase 2d, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2d.

Phase 2d Industry Member Data includes with respect to the Eligible Securities that are options: (1) Simple manual orders; (2) electronic and manual paired orders; (3) all complex orders with linkages to all CAT-reportable legs; (4) LTIDs (if applicable) for accounts with Reportable Events for Phase 2d; (5) date account opened or Account Effective Date (as applicable) for accounts with an LTID and flag indicating the Firm Designated ID type as account or relationship for such accounts;²² (6) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (7) the modification or cancellation of an internal route of an order; and (8) linkage between a combined order and the original customer orders.

Phase 2d Industry Member Data also would include electronic quotes that are provided by or received in a CAT Reporter’s order/quote handling or execution systems in Eligible Securities that are options and are provided by an Industry Member to other market

²¹ The Participants have determined that reporting information regarding the modification or cancellation of a route is necessary to create the full lifecycle of an order. Accordingly, the Participants require the reporting of information related to the modification or cancellation of a route similar to the data required for the routing of an order and modification and cancellation of an order pursuant to Sections 6.3(d)(ii) and (iv) of the CAT NMS Plan.

²² As noted above, the Exchange also proposes to amend the dates in the definitions of “Account Effective Date” and “Customer Account Information” to reflect the Phased Reporting. Specifically, the Exchange proposes to amend paragraph (m)(2) of General 7, Section 1 to replace the references to November 15, 2018 and 2019 with references to the commencement of Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2)–(5) of General 7, Section 1 regarding the definition of “Account Effective Date” with similar changes to the dates set forth therein.

2018 and 2019 with references to the commencement of Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2)–(5) of General 7, Section 1 regarding the definition of “Account Effective Date” with similar changes to the dates set forth therein.

²⁰ In Phase 2c, for any scenarios that involve orders originated in different systems that are not directly linked, such as a customer order originated in an OMS and represented by a principal order originated in an EMS that is not linked to the OMS, marking and linkages must be reported as required in the Industry Member Technical Specifications.

participants off a national securities exchange under the following conditions: A listed option bid or offer which is accessible electronically by customers or other market participants and is immediately actionable (*i.e.*, no further action is required by the responder providing the quote in order to execute or cause a trade to be executed). Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.*, FIX) that meets this definition would be reportable in Phase 2d for options.

Phase 2d Industry Member Data also would include with respect to Eligible Securities that are options or equities (1) receipt time of cancellation and modification instructions through Order Cancel Request and Order Modification Request events; (2) modifications of previously routed orders in certain instances; and (3) OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter that does not match and execute orders. In addition, subject to any exemptive or other relief, Phase 2d Industry Member Data will include verbal or manual quotes on an exchange floor or in the over-the-counter market, where verbal quotes and manual quotes are defined as bids or offers in Eligible Securities provided verbally or that are provided or received other than via a CAT Reporter's order handling and execution system (*e.g.*, quotations provided via email or instant messaging).

(ii) Timing of Phase 2d Reporting

Pursuant to paragraph (c)(1) of General 7, Section 12, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2d for Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of General 7, Section 12 with new paragraph (c)(1)(D) of General 7, Section 12, which would state, in relevant part, that “[e]ach Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (D) Phase 2d Industry Member Data by December 13, 2021.”

Pursuant to paragraph (c)(2) of General 7, Section 12, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2d for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of General

7, Section 12 with new paragraph (c)(2)(C) of General 7, Section 12, which would state, in relevant part, that “Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Small Industry Members to report to the Central Repository . . . Phase 2d Industry Member Data by December 13, 2021.”

E. Phase 2e

In the fifth phase of Phased Reporting, referred to as Phase 2e, both Large Industry Members and Small Industry Members would be required to report to the Central Repository “Phase 2e Industry Member Data” by July 11, 2022. To implement the Phased Reporting for Phase 2e, the Exchange proposes to add paragraph (t)(5) to General 7, Section 1 and amend paragraphs (c)(1) and (2) of General 7, Section 12.

(i) Scope of Phase 2e Reporting

To implement the Phased Reporting with respect to Phase 2e, the Exchange proposes to add a definition of “Phase 2e Industry Member Data” as paragraph (t)(5) of General 7, Section 1. Specifically, the Exchange proposes to define the term “Phase 2e Industry Member Data” as “Industry Member Data required to be reported to the Central Repository commencing in Phase 2e. The full scope of Industry Member Data required by the CAT NMS Plan will be required to be reported to the CAT when Phase 2e has been implemented, subject to any applicable exemptive relief or amendments to the CAT NMS Plan.” LTIDs and Account Effective Date are both required to be reported in Phases 2c and 2d in certain circumstances, as discussed above. The terms “Customer Account Information” and “Customer Identifying Information” are defined in General 7, Section 1 of the Compliance Rule.²³ The Industry Member Technical Specifications

²³ The term “Customer Account Information” includes account numbers, and the term “Customer Identifying Information” includes, with respect to individuals, dates of birth and SSNs. See General 7, Section 1. The Participants have received exemptive relief from the requirements for the Participants to require their members to provide dates of birth, account numbers and social security numbers for individuals to the CAT. See Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020). See also Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Jan. 29, 2020). Given the relief has been granted, Phase 2e Industry Member Data will not include account numbers, dates of birth and SSNs for individuals.

provide detailed guidance regarding the reporting for Phase 2e.

(ii) Timing of Phase 2e Reporting

Pursuant to paragraph (c)(1) of General 7, Section 12, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2e for Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of General 7, Section 12 with new paragraph (c)(1)(E) of General 7, Section 12, which would state, in relevant part, that “[e]ach Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (E) Phase 2e Industry Member Data by July 11, 2022.”

Pursuant to paragraph (c)(2) of General 7, Section 12, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2e for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of General 7, Section 12 with new paragraph (c)(2)(D) of General 7, Section 12, which would state, in relevant part, that “[e]ach Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (E) Small Industry Members to report to the Central Repository Phase 2e Industry Member Data by July 11, 2022.”

F. Industry Member Testing Requirements

General 7, Section 9(a) sets forth various compliance dates for the testing and development for connectivity, acceptance and the submission order data. In light of the intent to shift to Phased Reporting in place of the two specified dates for the commencement of reporting for Large and Small Industry Members, the Exchange correspondingly proposes to replace the Industry Member development testing milestones in General 7, Section 9(a) with the testing milestones set forth in the exemptive relief. Specifically, the Exchange proposes to replace General 7, Section 9(a) with the following:

(1) Industry Member file submission and data integrity testing for Phases 2a and 2b shall begin in December 2019.

(2) Industry Member testing of the Reporter Portal, including data integrity error correction tools and data submissions, shall begin in February 2020.

(3) The Industry Member test environment shall open with intra-firm linkage validations

to Industry Members for both Phases 2a and 2b in April 2020.

(4) The Industry Member test environment shall open to Industry Members with inter-firm linkage validations for both Phases 2a and 2b in July 2020.

(5) The Industry Member test environment shall open to Industry Members with Phase 2c functionality (full representative order linkages) in January 2021.

(6) The Industry Member test environment shall open to Industry Members with Phase 2d functionality (manual options orders, complex options orders, and options allocations) in June 2021.

(7) Participant exchanges that support options market making quoting shall begin accepting Quote Sent Time on quotes from Industry Members no later than April 2020.

(8) The Industry Member test environment (customer and account information) will be open to Industry Members in January 2022.

iv. Granularity of Timestamps

On February 3, 2020, the Participants filed with the Commission a request for exemptive relief from the requirement in Section 6.8(b) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require that, to the extent that its Industry Members utilize timestamps in increments finer than nanoseconds in their order handling or execution systems, such Industry Members utilize such finer increment when reporting CAT Data to the Central Repository.²⁴ On April 8, 2020, the Participants received the exemptive relief.²⁵ As a condition to this exemption, the Participants, through their Compliance Rules, will require Industry Members that capture timestamps in increments more granular than nanoseconds to truncate the timestamps, after the nanosecond level for submission to CAT, not round up or down in such circumstances. The timestamp granularity exemption remains in effect for five years, until April 8, 2025. After five years, the exemption would no longer be in effect unless the period the exemption is in effect is extended by the SEC.

Accordingly, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief. Specifically, the Exchange proposes to amend paragraph (a)(2) of General 7, Section 6. General 7, Section 6(a)(2) states that

Subject to paragraph (b), to the extent that any Industry Member's order handling or execution systems utilize time stamps in

increments finer than milliseconds, such Industry Member shall record and report Industry Member Data to the Central Repository with time stamps in such finer increment.

The Exchange proposes to amend this provision to read as follows to reflect the exemptive relief:

Subject to paragraph (b), to the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, such Industry Member shall record and report Industry Member Data to the Central Repository with time stamps in such finer increment up to nanoseconds; provided, that Industry Members that capture timestamps in increments more granular than nanoseconds must truncate the timestamps after the nanosecond level for submission to CAT, rather than rounding such timestamps up or down, until April 8, 2025.

v. Introducing Industry Members

On February 3, 2020, the Participants requested that the Commission exempt broker-dealers that do not qualify as Small Industry Members solely because they satisfy Rule 0–10(i)(2) under the Exchange Act and, as a result, are deemed affiliated with an entity that is not a small business or small organization (“Introducing Industry Member”) from the requirements in the CAT NMS Plan applicable to Industry Members other than Small Industry Members (“Large Industry Members”).²⁶ Instead, such Introducing Industry Members would comply with the requirements in the CAT NMS Plan applicable to Small Industry Members. On April 20, 2020, the SEC granted the Participants exemptive relief with regard to Introducing Industry Members.²⁷

As a result, the Exchange proposes to amend its Compliance Rule to adopt a definition of “Introducing Industry Member” and to revise General 7, Section 12 to require Introducing Industry Members to comply with the requirements of the CAT NMS Plan applicable to Small Industry Members. Specifically, the Exchange proposes to define “Introducing Industry Member” in proposed paragraph (v) to General 7, Section 1, as “a broker-dealer that does not qualify as a Small Industry Member solely because such broker-dealer satisfies Rule 0–10(i)(2) under the Exchange Act in that it introduces

transactions on a fully disclosed basis to clearing firms that are not small businesses or small organizations.” The Exchange also proposes to add a new paragraph (3) to General 7, Section 12(c) to state that “Introducing Industry Members must comply with the requirements of the CAT NMS Plan applicable to Small Industry Members.” With these changes, Introducing Industry Members would be required to comply with the requirements in the CAT NMS Plan applicable to Small Industry Members, rather than the requirements in the CAT NMS Plan applicable to Large Industry Members.

vi. CCID/PII

On January 29, 2020, the Participants filed with the Commission a request for exemptive relief from certain requirements related to reporting SSNs, dates of birth and account numbers to the CAT.²⁸ The Commission, Participants and others indicated security concerns with maintaining such sensitive Customer information in the CAT. On March 17, 2020, the Participants received the exemptive relief, subject to certain conditions.²⁹ Assuming the Participants comply with the conditions set forth in the PII Exemption Order, Industry Members would not be required to report SSNs, dates of birth and account numbers to the CAT NMS Plan.

As described in the request for exemptive relief, the Participants requested exemptive relief to allow for an alternative approach to generating a CAT Customer ID (“CCID”) without requiring Industry Members to report SSNs to the CAT (the “CCID Alternative”). In lieu of retaining such SSNs in the CAT, the Participants would use the CCID Alternative, a strategy developed by the Chief Information Security Officer for the CAT and the Chief Information Security Officers from each of the Participants, in consultation with security experts from member firms of Securities Industry and

²⁸ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Jan. 29, 2020).

²⁹ See Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020) (Order Granting Conditional Exemptive Relief, Pursuant to Section 36 and Rule 608(e) of the Securities Exchange Act of 1934, from Section 6.4(d)(ii)(C) and Appendix D Sections 4.1.6, 6.2, 8.1.1, 8.2, 9.1, 9.2, 9.4, 10.1, and 10.3 of the National Market System Plan Governing the Consolidated Audit Trail) (“PII Exemption Order”). The PII Exemption Order lists several conditions that must be met by the Exchange. If the Exchange does not satisfy the conditions, the PII Exemption Order would not apply to the Exchange.

²⁴ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Granularity of Timestamps and Relationship Identifiers (Feb. 3, 2020).

²⁵ See Securities Exchange Act Release No. 88608 (April 8, 2020), 85 FR 20743 (April 14, 2020).

²⁶ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Small Industry Members (Feb. 3, 2020).

²⁷ See Securities Exchange Act Release No. 88703 (April 20, 2020), 85 FR 23115 (April 24, 2020).

Financial Markets Association. The CCID Alternative facilitates the ability of the Plan Processor to generate a CCID without requiring the Plan Processor to receive SSNs or store SSNs within the CAT. Under the CCID Alternative, the Plan Processor would generate a unique CCID using a two-phase transformation process that avoids having SSNs reported to or stored in the CAT. In the first transformation phase, a CAT Reporter would transform the SSN to an interim value (the “transformed value”). This transformed value, and not the SSN, would be submitted to a separate system within the CAT (“CCID Subsystem”). The CCID Subsystem would then perform a second transformation to create the globally unique CCID for each Customer that is unknown to, and not shared with, the original CAT Reporter. The CCID would then be sent to the customer and account information system of the CAT, where it would be linked with the other customer and account information. The CCID may then be used by the Participants’ regulatory staff and the SEC in queries and analysis of CAT Data. To implement the CCID Alternative, the Participants requested exemptive relief from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan to require, through their Compliance Rules, Industry Members to record and report SSNs to the Central Repository for the original receipt of an order. As set forth in one condition of the PII Exemption Order, Industry Members would be required to transform an SSN to an interim value, and report the transformed value to the CAT.

The Participants also requested exemptive relief to allow for an alternative approach which would exempt the reporting of dates of birth and account numbers³⁰ to the CAT (“Modified PII Approach”), and instead would require Industry Members to report the year of birth and the Firm Designated ID for each trading account associated with the Customers. To implement the Modified PII Approach, the Participants requested exemptive relief from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan to require, through their Compliance Rules, Industry Members to record and report to the Central Repository for the original receipt of an order dates of birth and account numbers for Customers. As conditions to the exemption, Industry

Members would be required to report the year of birth of an individual to the Central Repository, and to report the Firm Designated ID to the Central Repository.

To implement the request for exemptive relief and to eliminate the requirement to report SSNs, date of birth and account numbers to the CAT, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief. General 7, Section 3(a)(2)(C) states that

[s]ubject to paragraph (3) below, each Industry Member shall record and report to the Central Repository the following, as applicable (“Received Industry Member Data” and collectively with the information referred to in General 7, Section 3(a)(1) “Industry Member Data”) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan: . . . (C) for original receipt or origination of an order, the Firm Designated ID for the relevant Customer, and in accordance with General 7, Section 4, Customer Account Information and Customer Identifying Information for the relevant Customer.

Similarly, General 7, Section 4 requires the reporting of Customer Account Information and Customer Identifying Information to the Central Repository. Currently, General 7, Section 1(m) defines “Customer Identifying Information” to include, with respect to individuals, “date of birth” and “individual tax payer identification number (“ITIN”)/social security number (“SSN”).” Accordingly, the Exchange proposes to replace “date of birth” in the definition of “Customer Identifying Information” in General 7, Section 1(m) (now renumbered General 7, Section 1(n)) with “year of birth” and to delete “individual tax payer identification number (“ITIN”)/social security number (“SSN”)” from General 7, Section 1(m) (now renumbered General 7, Section 1(n)). In addition, currently, General 7, Section 1(l) defines “Customer Account Information” to include account numbers. The Exchange proposes to delete “account number” from the definition of “Customer Account Information” in General 7, Section 1(l) (now renumbered General 7, Section 1(m)).

The Exchange also proposes to add a definition of the term “Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”)” to General 7, Section 1. Specifically, the Exchange proposes to add paragraph (pp) to General 7, Section 1 to define “Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”)” to mean “the interim value created by an

Industry Member based on a Customer ITIN/SSN.”

The Exchange proposes to revise General 7, Section 3(a)(2)(C) to include the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”). Specifically, the Exchange proposes to revise General 7, Section 3(a)(2)(C) to state:

[s]ubject to paragraph (3) below, each Industry Member shall record and report to the Central Repository the following, as applicable (“Received Industry Member Data” and collectively with the information referred to in General 7, Section 3(a)(1) “Industry Member Data”) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan: . . . (C) for original receipt or origination of an order, the Firm Designated ID for the relevant Customer, Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”), and in accordance with General 7, Section 4, Customer Account Information and Customer Identifying Information for the relevant Customer.

The Exchange also proposes to include the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) in the Customer information reporting required under General 7, Section 4. Specifically, the Exchange proposes to revise General 7, Section 4(a) to require each Industry Member to submit to the Central Repository the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”), for each of its Customers with an Active Account prior to such Industry Member’s commencement of reporting to the Central Repository and in accordance with the deadlines set forth in General 7, Section 9. The Exchange also proposes to revise General 7, Section 4(b) to require each Industry Member to submit to the Central Repository any updates, additions or other changes to the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) for each of its Customers with an Active Account on a daily basis. In addition, the Exchange proposes to revise General 7, Section 4(c) to require, on a periodic basis as designated by the Plan Processor and approved by the Operating Committee, each Industry Member to submit to the Central Repository a complete set of the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) for each of its Customers with an Active Account. The Exchange also proposes to revise General 7, Section 4(d) to require, for each Industry Member for which

³⁰ With respect to this aspect of the requested relief, the PII Exemption Order provided relief with regard to the reporting of all account numbers, not just account numbers for individuals as requested by the Participants.

errors in the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) for each of its Customers with an Active Account submitted to the Central Repository have been identified by the Plan Processor or otherwise, such Industry Member to submit corrected data to the Central Repository by 5:00 p.m. Eastern Time on T+3.

Paragraph (1)(B) of General 7, Section 1(m), the definition of “Customer Account Information” states that “in those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution, the Industry Member will” . . . “provide the relationship identifier in lieu of the “account number.” As an account number will no longer be an element in “Customer Account Information,” the relationship identifier used in lieu of the account number will no longer be required as an element of Customer Account Information. Therefore, the Exchange proposes to delete the requirement set forth in General 7, Section 1(m)(a)(B) regarding relationship identifiers from General 7, Section 1(m).

With these changes, Industry Members would not be required to report to the Central Repository dates of birth, SSNs or account numbers pursuant to General 7, Section 3(a)(2)(C). However, Industry Members would be required to report the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) and the year of birth to the Central Repository.³¹

vii. FINRA Facility Data Linkage

On June 5, 2020, the Participants filed with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to allow for an alternative approach to the reporting of clearing numbers and cancelled trade indicators.³² The SEC provided this exemptive relief on June 11, 2020.³³ FINRA is required to report to the Central Repository data collected by FINRA’s Trade Reporting Facilities, FINRA’s OTC Reporting Facility or FINRA’s Alternative Display Facility

(collectively, “FINRA Facility”) pursuant to applicable SRO rules (“FINRA Facility Data”). Included in this FINRA Facility Data is the clearing number of the clearing broker for a reported trade as well as the cancelled trade indicator. Under this alternative approach, the clearing number and the cancelled trade indicator of the FINRA Facility Data that is reported to the CAT would be linked to the related execution reports reported by Industry Members. To implement this approach in a phased manner, the Participants received exemptive relief from the requirement in Sections 6.4(d)(ii)(A)(2) and (B) of the CAT NMS Plan to require, through their Compliance Rules, that Industry Members record and report to the Central Repository: (1) If the order is executed, in whole or in part, the SRO-Assigned Market Participant Identifier of the clearing broker, if applicable; and (2) if the trade is cancelled, a cancelled trade indicator, subject to certain conditions.

As a condition to this exemption, the Participants would continue to require Industry Members to submit a trade report for a trade, and, if the trade is cancelled, a cancellation, to a FINRA Facility pursuant to applicable SRO rules, and to report the corresponding execution to the Central Repository. In addition, Industry Members would be required to report to the Central Repository the unique trade identifier reported to a FINRA Facility with the corresponding trade report. Furthermore, if an Industry Member does not submit a cancellation to a FINRA Facility, or is unable to provide a link between the execution reported to the Central Repository and the related FINRA Facility trade report, then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator and cancelled trade timestamp if the trade is cancelled. Similarly, if an Industry Member does not submit the clearing number of the clearing broker to a FINRA Facility for a trade, or is unable to provide a link between the execution reported to the Central Repository and the related FINRA Facility trade report, then the Industry Member would be required to record and report to the Central Repository the clearing number as well as contra party information.

As a result, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief to implement this alternative approach. Specifically, the Exchange proposes to require Industry Members to report to the CAT with an execution report the unique trade identifier reported to a FINRA facility

with the corresponding trade report. For example, the unique trade identifier for the OTC Reporting Facility and the Alternative Display Facility would be the Compliance ID, for the FINRA/Nasdaq Trade Reporting Facility, it would be the Branch Sequence Number, and for the FINRA/NYSE Trade Reporting Facility, it would be the FINRA Compliance Number. This unique trade identifier would be used to link the FINRA Facility Data with the execution report in the CAT. Specifically, the Exchange proposes to add new paragraph (a)(2)(E) to General 7, Section 3, which states that:

(E) If an Industry Member is required to submit and submits a trade report for a trade, and, if the trade is cancelled, a cancellation, to one of FINRA’s Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, and the Industry Member is required to report the corresponding execution and/or cancellation to the Central Repository:

(1) the Industry Member is required to report to the Central Repository trade identifier reported by the Industry Member to such FINRA facility for the trade when the Industry Member reports the execution of an order pursuant to General 7, Section 3(a)(1)(E) or cancellation of an order pursuant to General 7, Section 3(a)(1)(D) beginning June 22, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters, and such trade identifier must be unique beginning October 26, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters.

The Exchange also proposes to relieve Industry Members of the obligation to report to the CAT data related to clearing brokers and trade cancellations pursuant to General 7, Section 3(a)(2)(A)(ii) and (B), respectively, as this data will be reported by FINRA to the CAT, except in certain circumstances. Accordingly, the Exchange proposes new paragraphs (a)(2)(E)(2) and (3) to General 7, Section 3, which would state:

(2) if the order is executed in whole or in part, and the Industry Member submits the trade report to one of FINRA’s Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, the Industry Member is not required to submit the SRO-Assigned Market Participant Identifier of the clearing broker pursuant to General 7, Section 3(a)(2)(A)(ii); provided, however, if the Industry Member does not report the clearing number of the clearing broker to such FINRA facility for a trade, or does not report the unique trade identifier to the Central Repository as required by General 7, Section 3(a)(2)(E)(1), then the Industry Member would be required to record and report to the Central Repository the clearing number of the

³¹ The Exchange anticipates that the Compliance Rule may be further amended when further details regarding the CCID Alternative are finalized.

³² See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to FINRA Facility Data Linkage (June 5, 2020).

³³ See Securities Exchange Act Release No. 89051 (June 11, 2020) (**Federal Register** publication pending).

clearing broker as well as information about the contra party to the trade beginning April 26, 2021 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters; and

(3) if the trade is cancelled and the Industry Member submits the cancellation to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, the Industry Member is not required to submit the cancelled trade indicator pursuant to General 7, Section 3(a)(2)(B); provided, however, if the Industry Member does not report a cancellation for a canceled trade to such FINRA facility, or does not report the unique trade identifier as required by 6830(a)(2)(E)(1), then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator as well as a cancelled trade timestamp beginning June 22, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,³⁴ in general, and furthers the objectives of Section 6(b)(5) of the Act,³⁵ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 6(b)(8) of the Act,³⁶ which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate.

The Exchange believes that this proposal is consistent with the Act because it is consistent with certain exemptions from the CAT NMS Plan, because it facilitates the retirement of certain existing regulatory systems, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan "is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act."³⁷ To the extent that this proposal implements the Plan, including the exemptive relief, and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the

objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule changes are consistent with certain exemptions from the CAT NMS Plan, facilitate the retirement of certain existing regulatory systems, and are designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. The Exchange also notes that the amendments to the Compliance Rules will apply equally to all Industry Members that trade NMS Securities and OTC Equity Securities. In addition, all national securities exchanges and FINRA are proposing these amendments to their Compliance Rules. Therefore, this is not a competitive rule filing, and, therefore, it does not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act³⁸ and subparagraph (f)(6) of Rule 19b-4 thereunder.³⁹

A proposed rule change filed under Rule 19b-4(f)(6)⁴⁰ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),⁴¹ the

³⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

³⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

⁴⁰ 17 CFR 240.19b-4(f)(6).

⁴¹ 17 CFR 240.19b-4(f)(6)(iii).

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 by June 22, 2020. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it implements exemptive relief from the CAT NMS Plan granted by the Commission and facilitates the start of Industry Member reporting on June 22, 2020. In addition, as noted by the Exchange, the proposed rule change is based on a filing recently approved by the Commission.⁴² Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative as of June 22, 2020.⁴³

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2020-035 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-NASDAQ-2020-035. This file number should be included on the subject line if email is used. To help the Commission process and review your

⁴² See Securities Exchange Act Release No. 89108 (June 19, 2020).

⁴³ 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).

³⁴ 15 U.S.C. 78f(b).

³⁵ 15 U.S.C. 78f(b)(5).

³⁶ 15 U.S.C. 78f(b)(8).

³⁷ See Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696, 84697 (November 23, 2016).

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2020-035 and should be submitted on or before July 20, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁴

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89131; File No. SR-CBOE-2020-055]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Amend Rule 5.24

June 23, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 12, 2020, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in

Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to amend Rule 5.24. 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://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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 5.24 regarding the Exchange's business continuity and disaster recovery plans. Rule 5.24 describes which Trading Permit Holders ("TPHs") are required to connect to the Exchange's backup systems as well as certain actions the Exchange may take as part of its business continuity plans so that it may maintain fair and orderly markets if unusual circumstances occurred that could impact the Exchange's ability to conduct business. This includes what actions the Exchange would take if its trading floor became inoperable. Specifically, Rule 5.24(e) states if the Exchange trading floor becomes inoperable, the Exchange will continue to operate in a screen-based only environment using a floorless configuration of the System that is operational while the trading floor facility is inoperable. The Exchange would operate using that

configuration only until the Exchange's trading floor facility became operational. Open outcry trading would currently not be available in the event the trading floor becomes inoperable.³

Rule 5.24(e)(1) currently states in the event that the trading floor becomes inoperable, trading will be conducted pursuant to all applicable System Rules, except that open outcry Rules would not be in force, including but not limited to the Rules (or applicable portions) in Chapter 5, Section G,⁴ and that all non-trading rules of the Exchange would continue to apply. The Exchange recently adopted several rule changes that would apply during a time in which the trading floor is inoperable, which are effective until June 30, 2020.⁵ The Exchange believes these Rules were necessary to implement to maintain a fair and orderly market while the trading floor was not operable in order to create an all-electronic trading environment similar to the otherwise unavailable open outcry trading environment.

As of March 16, 2020, the Exchange suspended open outcry trading to help prevent the spread of COVID-19⁶ and is currently operating in an all-electronic configuration. The Exchange has continued to operate in an all-electronic configuration but currently plans to reopen its trading floor on June 15, 2020, at which time the Exchange will return to its normal operations as a hybrid exchange with electronic and open outcry trading. However, given the uncertainty related to the ongoing pandemic, which includes the possibility of the Exchange having to close its trading floor again, and given the possibility that the Exchange's trading floor may be inoperable for other reasons in the future, the Exchange

³ Pursuant to Rule 5.26, the Exchange may enter into a back-up trading arrangement with another exchange, which could allow the Exchange to use the facilities of a back-up exchange to conduct trading of certain of its products. The Exchange currently has no back-up trading arrangement in place with another exchange.

⁴ Chapter 5, Section G of the Exchange's rulebook sets forth the rules and procedures for manual order handling and open outcry trading on the Exchange.

⁵ See Securities Exchange Act Release Nos. 88386 (March 13, 2020), 85 FR 15823 (March 19, 2020) (SR-CBOE-2020-019); 88447 (March 20, 2020) (SR-CBOE-2020-023); 88490 (March 26, 2020), 85 FR 18318 (April 1, 2020) (SR-CBOE-2020-026); 88530 (March 31, 2020), 85 FR 19182 (April 6, 2020) (SR-CBOE-2020-031); and 88886 (May 15, 2020), 85 FR 31008 (May 21, 2020) (SR-CBOE-2020-047).

⁶ On March 11, 2020, the World Health Organization characterized COVID-19 as a pandemic and to slow the spread of the disease, federal and state officials implemented social-distancing measures, placed significant limitations on large gatherings, limited travel, and closed non-essential businesses.

⁴⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

believes it is appropriate to continue to review and enhance its business continuity plans. While the recent amendments to Rule 5.24(e)(1) allowed all-electronic trading to occur more similarly to open outcry trading, an all-electronic trading environment cannot fully replicate open outcry trading.⁷ Therefore, the Exchange continues to evaluate potential enhancements that it believes would permit trading while the trading floor is inoperable to more closely replicate its trading environment that exists during normal operations.

There are certain features of open outcry trading that are difficult to replicate in an electronic trading environment, particularly the human interaction that permits persons to negotiate pricing and to facilitate executions of larger orders and high-risk and complicated strategies. For example, from January 2 through March 13, 2020 (the last day on which the trading floor was open), complex orders for SPX options with more than six legs represented approximately 5.3% of the total SPX complex order average daily volume (“ADV”) during that timeframe. However, from March 16, 2020 (the first day on which the trading floor was closed) through April 30, 2020, complex orders for SPX options with more than six legs represented only approximately 2.2% of the total SPX complex order ADV during that similar timeframe. Similarly, the corresponding ADV percentages for VIX options complex orders were approximately 6.2% (prior to the trading floor closing) and 1.8% (after the trading floor closing), respectively. This data, taken into consideration with feedback from customers, demonstrates the difficulty market participants have with executing high-risk and complex strategies in an all-electronic trading environment that does not allow for human interaction.

The Exchange believes the proposed rule change would further enhance the Exchange’s trading environment when the trading floor is inoperable by permitting market participants that generally operate on the trading floor to continue to interact in a substantially similar manner as they do on the trading floor. Specifically, the Exchange proposes to adopt Rule 5.24(e)(3) to permit it to make available an audio and video communication program to serve as a “virtual trading floor” in one or

more option classes⁸ if the physical trading floor is inoperable or operating in a modified state (as further discussed below). In the program, the Exchange will create “virtual trading pits,” in each of which the Exchange will determine which options class(es) will be available for trading. This is similar to the Exchange’s authority with respect to open outcry trading on the physical trading floor.⁹

The Exchange will use a communication program that has audio and video capabilities, as well as “chat” functionality.¹⁰ In a virtual trading pit, each TPH authorized to access the virtual trading floor (as described below) that enters the virtual trading pit will be visible to all other TPHs in that virtual trading pit. Additionally, all TPHs in that virtual trading pit may speak to each other through the program. This will allow the same communication capabilities TPHs generally have on the physical trading floor so that they may conduct open outcry trading on the virtual trading floor in the same manner as they do on the physical trading floor.

All Rules related to open outcry trading, including those in Chapter 5, Section G, will apply to open outcry trading on the virtual floor in the same manner as they apply to open outcry trading on the physical trading floor, except as the context otherwise requires¹¹ and as set forth in proposed subparagraph (e)(3). Proposed subparagraph (e)(3)(A) lists certain terms in the Rules related to open outcry trading on the physical trading floor that will be deemed to refer to corresponding terms related to open outcry trading on the virtual trading floor. Specifically:

- References in the Rules to the “floor,” “trading floor,” and “Exchange floor” (and any other terms with the same meaning) will be deemed to refer to the “virtual trading floor.”

⁸ Like open outcry trading on the trading floor, open outcry trading on the virtual trading floor would be available only during Regular Trading Hours.

⁹ Pursuant to Rule 5.50(h), the Exchange may determine for each options class traded on the Exchange whether the class should be appointed to a trading crowd and which trading crowd should be appointed the class, and to determine the location on the Exchange’s trading floor of each trading crowd.

¹⁰ Currently available programs with this functionality include Zoom, Webex, Microsoft Teams, and others.

¹¹ For example, Rule 5.80(d)(4)(1) requires a clerk to remain at a booth subject to certain exceptions. The concept of a booth is specific to the physical trading floor so has no applicability to the virtual trading floor. Additionally, as the virtual trading floor has no physical trading space, Rule 5.93 regarding trading crowd space disputes has no applicability to the virtual trading floor.

- References in the Rules to “pit,” “trading station,” and “trading post” (and any other terms with the same meaning) will be deemed to refer to a “virtual trading pit.”

- References in the Rules to “physical presence” (any other terms with the same meaning) in a pit or on the trading floor will be deemed to refer “presence” in a virtual trading pit or on the virtual trading floor, respectively.

- The terms “in-crowd market participant” and “ICMP” mean a Market-Maker, a Designated Primary Market-Maker (“DPM”) or Lead Market-Maker (“LMM”) with an allocation in a class, or a Floor Broker or PAR Official representing an order in a virtual pit on the virtual trading floor.¹²

- References to an “on-floor DPM” or “on-floor LMM” will be deemed to refer to a DPM or LMM, respectively, in a virtual pit for its allocated class(es).

Access to the virtual trading floor will be substantially similar to access to the physical trading floor. Currently, admission to the physical trading floor is limited to Trading Permit Holders, Exchange employees, clerks employed by Trading Permit Holders and registered with the Exchange, service personnel, Exchange visitors that receive authorized admission to the trading floor pursuant to Exchange policy, and any other persons that the Exchange¹³ authorizes admission to the trading floor.¹⁴ Proposed subparagraph (3)(B) provides the same persons with access to the virtual trading floor, except for clerks, service personnel, and visitors. Clerks may continue to perform the same functions for their associated Floor Broker TPH organizations in connection with open outcry trading on the virtual trading floor as they do for open outcry trading on the physical trading floor, but they will not receive access to enter (*i.e.* log into) the virtual trading floor, as they do not need that access to perform those functions. Additionally, as there is no physical equipment that would need service on the virtual trading floor, and no purpose for a visitor to observe the virtual trading floor, the proposed rule change excludes service personnel and visitors from accessing the virtual trading floor.¹⁵

¹² This is substantially similar to the definition of ICMP in Rule 1.1.

¹³ Rule 5.80(a) provides the President or a designee with this authority. However, decisions regarding admission to the floor are generally made by appropriate Exchange staff, which may include the President. The Exchange believes use of the term “Exchange” is, therefore, more appropriate.

¹⁴ See Rule 5.80(a).

¹⁵ While the Exchange does not anticipate granting any other individuals with access to the

⁷ The Exchange continues to consider other enhancements to the all-electronic trading configuration that it believes may permit this configuration to further replicate the open outcry trading environment. The Exchange would submit separate rule filings for any such proposed enhancements.

As is the case with the physical trading floor, the Exchange will provide access to the virtual trading floor to TPHs the Exchange has approved to perform a trading floor function (including Floor Brokers and Market-Makers).¹⁶ TPHs are not required to display badges on the virtual trading floor, as the size of the view on the communication program may not permit badges to be visible.¹⁷ Currently, on the physical trading floor, a Market-Maker has an appointment to trade open outcry in all classes trading on the Exchange (and must be physically present in the trading crowd to trade in open outcry).¹⁸ Similarly, any Market-Maker authorized to act on the physical trading floor will receive access to each virtual trading pit on the virtual trading floor and may determine which virtual trading pits it wants to enter to trade.

As set forth in Rule 5.81(a), subject to the requirements in that Rule, TPHs may use any communication device (e.g., any hardware or software related to a phone, system, or other device, including an instant messaging system, email system, or similar device) on the trading floor and in any trading crowd of the Exchange (which it must register with the Exchange). Pursuant to proposed subparagraph (3)(C), TPHs may use any equipment to access the virtual trading floor. However, TPHs must use Exchange-provided equipment to access PAR workstations while transacting on the virtual trading floor for security purposes. PAR will be used and work in the same manner for the virtual trading floor as it is on the physical trading floor.¹⁹ Prior to using a communications device for business purposes on the trading floor of the Exchange, Trading Permit Holders must register the communications device by identifying (in a form and manner prescribed by the Exchange) the hardware (i.e., headset, cellular telephone, tablet, or other similar hardware). Because individuals on the virtual trading floor will not be on the Exchange premises (and thus will not be

using Exchange-provided bandwidth to be shared with all market participants and do not pose the same security risks), the proposed rule change will not require TPHs to register devices they use while on the virtual trading floor. Rule 5.81(a) will otherwise apply in the same manner to the virtual trading floor as it does to the physical trading floor (to the extent the context requires). This includes requirements related to audit trail and record retention, prohibition on using any device for the purpose of recording activities in the virtual trading pit or maintaining an open line of continuous communication whereby a non-associated person not located in the trading crowd may continuously monitor the activities in the trading crowd, and the prohibition on using devices to disseminate quotes or last sale reports.

Proposed subparagraph (3)(D) provides that the Exchange may determine to require any Market-Maker or Floor Broker in a virtual trading pit that wants to trade against an order represented for execution to express its bid or offer in a chat available in the virtual trading pit.²⁰ TPHs on the physical trading floor only verbalize their interest to trade against a represented order, so not requiring bids and offers to be included in a chat conforms to current practice on the trading floor. However, given potential limitations of communication software (such as limitations on how many people may be heard at the same time in a virtual pit or potential buffering or echoing), the Exchange believes it may be appropriate to require market participants to use a chat tool in the communication program to indicate their interest in participating in a trade so that the representing Floor Broker is able to know the market from the trading crowd and fairly allocate the trade pursuant to the Rules. The Exchange believes the flexibility to impose this requirement in a virtual trading pit is appropriate, as these limitations may ultimately not interfere with a Floor Broker's ability to hear all interest (particularly in virtual trading pits with few participants) and thus the additional requirement may potentially slow down executions. Flexibility will permit the Exchange to balance system limitations with the additional burden of a new workflow step for each class, some of which have different open

outcry trading environments than others.

As noted above, the Exchange may determine to make the virtual trading floor available if the physical trading floor is operating in a modified state. Proposed subparagraph (e)(3)(E) provides that if the Exchange determines to operate the trading floor in a modified state that requires the Exchange to limit the number of individuals that may access the trading floor,²¹ the Exchange may provide a virtual trading for an impacted class. Effective June 15, 2020, the Exchange will modify the configuration of certain trading crowds in order to ensure compliance with state and local health and safety guidelines, as well as ensure the safety and welfare of any individual that accesses the trading floor (i.e., operating in a modified state). Specifically, the Exchange anticipates having to not only relocate and modify the physical area of at least one trading crowd, but also intends to require floor participants to stand in such trading crowd in order to comply with state and local health and safety guidelines, including social distancing (i.e., provide for at least 6 feet between individuals). As a result, with respect one trading class (the SPX options pit), there will be a smaller number of available trading spaces than are generally available in the normal SPX options pit. Therefore, certain individuals that normally trade in the SPX options pit will be unable to do so while the Exchange operates its trading floor in the modified state. Additionally, the Exchange understands certain individuals that normally trade on the physical trading floor have indicated they do not plan to initially return to the trading floor due to their own health and safety concerns.²²

If the Exchange makes a virtual trading floor available while the physical trading floor operates in a modified state, persons authorized but unable to access the physical trading floor will be provided with access to the virtual trading floor. For example, given the current expected reconfiguration of

virtual trading floor outside of TPHs and Exchange personnel (such as PAR Officials and Regulatory Division staff), the Exchange believes the flexibility to permit Exchange personnel to access the virtual trading floor is appropriate, such as to permit access to make updates to the communication program.

¹⁶ See Rule 5.80(e), pursuant to which only those TPHs the Exchange has approved to perform a floor trading function (including Floor Brokers and Market-Makers) may enter into transactions on the trading floor.

¹⁷ The virtual trading floor program will identify the TPH organization of each participant in a virtual trading pit.

¹⁸ See Rule 5.50(e).

¹⁹ See Rule 5.82. The Exchange notes TPHs similarly use Exchange-provided hardware to access PAR on the physical trading floor.

²⁰ The Exchange will announce to all TPHs any determination to require bids and offers to be expressed in a chat within the communication program pursuant to Rule 1.5 (such as by Exchange notice or regulatory circular). The Exchange will provide such notice with sufficient advance notice.

²¹ For example, as the Exchange intends to do upon reopening the physical trading floor on June 15, 2020, the Exchange may temporarily relocate or resize a trading pit for safety and welfare purposes. See Exchange Notice C2020060300, Schedule Update—Cboe Options Trading Floor Re-Opening June 15, 2020, available at https://cdn.cboe.com/resources/release_notes/2020/C1-Trading-Floor-Re-Opening-Second-Reminder-and-Update.pdf.

²² There may be other reasons why the Exchange operates its trading floor in a modified state. For example, if there was a fire on the trading floor, the Exchange may need to relocate and modify the size of one or more trading crowds, which could similarly require it to limit the number of individuals that may access the physical trading floor.

the SPX options pit, approximately half of the Floor Brokers and Market-Makers that normally trade in the SPX options pit will not be able to trade in the modified SPX options pit. The proposed rule change would provide these Floor Brokers and Market-Makers with access to the virtual trading floor.

The virtual trading floor would essentially supplement the physical trading floor. Specifically, the physical and virtual trading pit for a class will together constitute a single trading pit for that class, and each will be visible and audible to the other. This will permit any orders represented and bids and offers made on the physical trading floor to be available for execution against orders represented and bids and offers made on the virtual trading floor, and vice versa. In order to integrate the physical and virtual trading pits for a class, the Exchange intends to add screens and speakers to the physical trading floor that would permit ICMPs on the physical trading floor to see and hear individuals on the virtual trading floor. Additionally, the Exchange intends to add cameras and microphones to the physical trading floor that would permit ICMPs on the virtual trading floor to see and hear individuals on the physical trading floor.

The Exchange believes offering a virtual trading floor to supplement the physical trading floor for any class impacted by the Exchange's operation of the physical trading floor in a modified state will provide access to open outcry trading for all individuals that normally trade on the physical trading floor, which could increase liquidity available in the trading pits within which fewer persons may physically participate. Because all participants will have access to the same pool of liquidity while the trading floor operates in this modified state, customer orders represented for execution within the single pit will have access to the best prices available, regardless of whether those prices are expressed on the physical trading floor or virtual trading floor.

While open outcry trading on the virtual trading floor will occur with in-crowd market participants interacting with each other remotely through a computer communication program, all trading that occurs on the virtual trading floor will occur in the same manner as it does on the physical trading floor. Specifically, open outcry trading on the virtual trading floor will be subject to the same priority and allocation rules as open trading on the physical trading floor, as set forth in Rule 5.85. The Exchange will make the same order types and instructions available on the

virtual trading floor as it makes available on the physical trading floor pursuant to Rule 5.83.²³ Floor Brokers will be subject to the responsibilities set forth in Rule 5.91 on the virtual trading floor, as they are on the physical trading floor. Additionally, TPHs participating on the virtual trading floor will be subject to the same regulatory requirements on the virtual trading floor as they are on the physical trading floor, including those set forth in Chapters 8 and 9. Orders must be systematized²⁴ and represented,²⁵ and transactions reported,²⁶ in connection with the virtual trading floor in the same manner as they are when trading on the physical trading floor. Therefore, the audit trail for open outcry trading on the virtual trading floor will capture the same information that it does for open outcry trading on the physical trading floor. The Regulatory Division will be able to utilize preexisting floor surveillances to surveil for the activity occurring on the virtual trading floor. As noted above, Regulatory Division staff may access the virtual trading floor if it deems necessary.

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.²⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁸ 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)²⁹ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, as it will permit open outcry trading to continue in the event the Exchange's trading floor is inoperable. As discussed above, while the Exchange has adopted Rules that have allowed all-electronic trading to occur more similarly to open outcry trading, there are certain features of open outcry trading that are difficult to replicate in an electronic trading environment. The Exchange has observed, and understands from various market participants, that they have had difficulty executing certain orders, such as larger orders and high-risk and complicated strategies, in an all-electronic trading configuration without the element of human interaction to negotiate pricing for these orders. The proposed rule change would provide an environment in which this interaction would be available despite the inoperability of the physical trading floor. The Exchange believes the proposed rule change may facilitate continued trading of these orders if and when the trading floor is inoperable. As a result, the Exchange believes providing continuous access to open outcry trading when the physical trading floor is inoperable will remove impediments to a free and open market and will ultimately benefit investors, particularly those desiring to execute high-risk and complex trading strategies.

The proposed rule change will further remove impediments to a free and open market and will ultimately benefit investors when the Exchange operates the physical trading floor in a modified state that requires it to limit the number of individuals that may access the trading floor. In this circumstance, all individuals that are unable to access the trading floor (such as for health and safety purposes) may still participate in open outcry trading. This "supplemental" version of a virtual trading floor will provide customer orders represented on the trading floor with access to the same pool of liquidity to which it would have access if the trading floor was operating in its normal state. All orders represented within the pit for a class, whether represented by

²³ Pursuant to Rule 5.83(b), the Exchange may determine whether to make complex orders types available for open outcry trading. The Exchange will not make a Multi-Class Spread order available on the virtual trading floor unless the Exchange has made the virtual trading floor available for both classes represented in the order, as such an order must be represented at both trading stations (or virtual trading pits in the context of the virtual trading floor) to be executed. See Rule 5.85(d).

²⁴ See Rule 5.7(f).

²⁵ See Rule 5.91(a)(4).

²⁶ See Rule 6.1(c).

²⁷ 15 U.S.C. 78f(b).

²⁸ 15 U.S.C. 78f(b)(5).

²⁹ *Id.*

a Floor Broker on the physical trading floor or virtual trading floor, will be able to execute against any bid and offer expressed within the pit, regardless of whether expressed on the physical trading floor or virtual trading floor. Providing individuals authorized to act but unable to be on the physical trading floor with remote access to open outcry trading within the pit for a class, will therefore provide increased liquidity for orders represented for execution in open outcry, even if the Exchange is operating the physical trading floor in a modified state. This increase liquidity may increase price discovery and execution opportunities for customer orders represented in open outcry.

The Exchange also believes the proposed rule change will promote just and equitable principles of trade, as open outcry trading on a virtual trading floor will occur in accordance with the same trading rules and be subject to the same regulatory requirements that apply to open outcry trading on the physical trading floor, all of which have previously been filed with the Commission. The proposed rule change will merely permit this open outcry trading to occur in a virtual setting rather than a physical setting (which may be appropriate for health and safety purposes)—in other words, open outcry trading on a virtual trading floor will occur while market participants operate remotely as they do when they trade electronically. Specifically, open outcry trading on the virtual trading floor will be subject to the same priority and allocation rules as open trading on the physical trading floor, as set forth in Rule 5.85. As is the case for open outcry trading on the physical trading floor, open outcry trading on the virtual trading floor is consistent with Section 11(a) of the Act, as Rule 5.85(a)(2)(E) (which will apply to open outcry trading on the virtual trading floor) requires TPHs relying on Section 11(a)(1)(G) of the Act and Rule 11a1–1(T) thereunder (the so called “G exemption rule”) as an exemption must yield priority to any bid (offer) at the same price of Priority Customer orders and broker-dealer orders resting in the Book, as well as any other bid (offer) that has priority over those broker-dealer orders under this Rule. The Exchange may make the same order types and instructions available on the virtual trading floor as it makes available on the physical trading floor pursuant to Rule 5.83. Floor Brokers will be subject to the responsibilities set forth in Rule 5.91 on the virtual trading floor, as they are on the physical trading floor. Additionally, TPHs participating

on the virtual trading floor will be subject to the same regulatory requirements on the virtual trading floor as they are on the physical trading floor, including those set forth in Chapters 8 and 9. Orders must be systematized and represented, and transactions reported, in connection with the virtual trading floor in the same manner as they are when trading on the physical trading floor. Therefore, the audit trail for open outcry trading on the virtual trading floor will capture the same information that it does for open outcry trading on the physical trading floor. The Regulatory Division will be able to utilize preexisting floor surveillances to surveil for the activity occurring on the virtual trading floor. As noted above, Regulatory Division staff may access the virtual trading floor if it deems necessary. The Exchange believes it will promote just and equitable principles of trading for all open outcry trading to occur in substantially the same manner, whether it occurs while market participants are in the same physical setting or in remote settings being connected through a technological solution.

In addition, the Exchange believes the proposed rule change will not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers, as all individuals authorized to act on the physical trading floor (both TPH organizations authorized at the time the physical trading floor becomes inoperable and any TPH organization that becomes authorized after the physical trading floor becomes inoperable) will be provided with access to the virtual trading floor. Additionally, the proposed rule change to permit the Exchange to provide a virtual trading floor if the Exchange is operating the physical trading floor in a modified state will provide individuals unable to trade on the physical trading floor as a result of the modified state to participate in open outcry trading remotely.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as all TPH organizations authorized by the Exchange, or that become authorized by the Exchange, to transact on the

trading floor will receive access to the virtual trading floor. The Exchange does not believe that 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 it relates solely to the location of open outcry trading on the Exchange. The proposed rule change will merely permit open outcry trading that generally occurs while market participants are located in the same physical setting to occur while market participants are in a remote setting, connected by a technological solution (as electronic trading does).

The Exchange believes that the proposed rule change will relieve any burden on, or otherwise promote, competition. The Exchange believes the proposed rule change will provide market participants with continuous access to open outcry trading when the physical trading floor is inoperable. The Exchange believes this may facilitate continued, competitive price negotiations and trading of orders that the Exchange understands are more difficult to execute in an all-electronic trading environment without human interaction. Additionally, the proposed rule change will provide customer orders represented for open outcry execution with access to the same pool of liquidity when the trading floor is inoperable or operating in a modified state to which those orders would have access when the trading floor is operating in its normal state. Maintenance of this level of liquidity at all times, even when the trading floor is inoperable, may promote competition by providing these customer orders with increased liquidity than may otherwise be available, and thus increased execution opportunities and price discovery.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- A. By order approve or disapprove such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CBOE-2020-055 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-CBOE-2020-055. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2020-055 and should be submitted on or before July 20, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁰

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020-13875 Filed 6-26-20; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89125; File No. SR-CboeBYX-2020-018]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Content of the Cboe One Feed Under Rule 11.22(i) to Identify the Primary Listing Market's Official Opening and Closing Price

June 23, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 10, 2020, Cboe BYX Exchange, Inc. (the "Exchange" or "BYX") 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 Act³ and Rule 19b-4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. ("BYX" or the "Exchange") is filing with the Securities and Exchange Commission (the "Commission") a proposed rule change to amend the content of the Cboe One Feed under Rule 11.22(i) to identify the primary listing market's official opening and closing price. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/equities/regulation/rule_filings/byx/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

³⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

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 content of the Cboe One Feed under Rule 11.22(i) to identify the primary listing market's official opening and closing price.

The Cboe One Feed is a data feed that disseminates, on a real-time basis, the aggregate best bid and offer ("BBO") of all displayed orders for securities traded on BYX and its affiliated exchanges.⁵ Among other things, the Cboe One Feed also includes consolidated volume for all listed equity securities regardless of where the transaction was executed and the Cboe One Opening Price and the Cboe One Closing Price.⁶

Now, in addition to the information currently provided in the Cboe One Feed, the Exchange is proposing to include the primary listing market's official opening and closing price for all listed equity securities as obtained directly from the securities information

⁵ BYX's affiliated exchanges are the Cboe BZX Exchange, Inc. ("BZX"), Cboe EDGA Exchange, Inc. ("EDGA"), and Cboe EDGX Exchange, Inc. ("EDGX", and together with BYX, BZX, and EDGA, the "Cboe Equity Exchanges"). See Securities Exchange Act Release No. 73918 (December 23, 2014), 79 FR 78920 (December 31, 2014) (File Nos. SR-EDGX-2014-25; SR-EDGA-2014-25; SR-BATS-2014-055; SR-BYX-2014-030) (Notice of Amendments No. 2 and Order Granting Accelerated Approval to Proposed Rule Changes, as Modified by Amendments Nos. 1 and 2, to Establish a New Market Data Product called the Cboe (formerly Bats) One Feed) ("Cboe One Approval Order").

⁶ For securities listed on Cboe BZX Exchange, Inc. ("BZX"), the Cboe One Opening Price shall be the BZX Official Opening Price as defined in BZX Rule 11.23(a)(5) and the Cboe One Closing Price shall be the BZX Official Closing Price as defined in BZX Rule 11.23(a)(3). For securities not listed on BZX, the Cboe One Opening Price shall be the first last sale eligible trade that occurred on the Exchange or any of its affiliates after 9:30 a.m. Eastern Time, and the Cboe One Closing Price shall be the final last sale eligible trade to occur on the Exchange or any of its affiliates prior to 4:00 p.m. Eastern Time. See Exchange Rule 11.22(i).

processors. Such information would supplement the existing consolidated volume and Cboe One Opening/Closing Price information included in the Cboe One Feed by providing additional consolidated trade information. The official opening and closing price for all listed equity securities would be disseminated via the Cboe One Feed after the Consolidated Tape Association (“CTA”) and Unlisted Trading Privileges (“UTP”) Plan Securities Information Processor (“SIP”) delay period, which is currently 15 minutes.

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.⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁸ 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. The Exchange also believes that the proposed rule change is consistent with Section 11(A) of the Act⁹ in that it supports (1) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets and (2) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Furthermore, the proposed rule change is consistent with Rule 603 of Regulation NMS,¹⁰ which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory. In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data products to the public. It was believed

that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data.

The proposed rule change is designed to promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system by identifying the primary listing market’s official opening and closing price. Significant volumes typically occur in the primary listing market auctions, and the prices derived from those auctions are used as a reference price for various other instruments, including options and exchange-traded products. Therefore, official opening and closing price information would provide meaningful information to investors. The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with new options for receiving such information. The Exchange also notes that the primary listing market’s official opening and closing price is currently included in a competing market data products offered by the New York Stock Exchange (“NYSE”).¹¹ Therefore, the Exchange believes the proposed rule change removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest as it would provide an additional avenue for investors to receive this information from a competing product. The proposal would not permit unfair discrimination because the primary listing market’s official opening and closing price will be available to all of the Exchange’s customers and market data vendors on an equivalent basis. In addition, any customer that wishes to receive this information via a different source will be able to do so.

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. Rather, the Exchange believes that the proposed rule change will enhance competition because it would enable the Exchange to

include primary listing market’s official opening and closing price as part of the Cboe One Feed, thereby enabling it to better compete with similar market data products currently offered by NYSE that include such information.¹² The Exchange is not the exclusive distributor of the primary listing market’s official opening and closing price, and a vendor seeking to offer a similar product that includes this information would be able to do so on the same terms as the Exchange. Specifically, a competing vendor could receive the primary listing market’s official opening and closing price from the securities information processors and include that information as part of their market data products to be disseminated to customers pursuant to the same terms and policies as the Exchange.¹³ Therefore, the Exchange believes the inclusion of the primary listing market’s official opening and closing price in the Cboe One Feed would not impose any burden on competition 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

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 Act¹⁴ and Rule 19b-4(f)(6) thereunder.¹⁵

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

¹² *Id.*

¹³ See CTA Consolidated Volume Display Policy with FAQ, *supra* note 7.

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 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.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78k-1.

¹⁰ See 17 CFR 242.603.

¹¹ Specifically, the NYSE BQT (Best Quote and Trade) proprietary feed includes the primary listing market’s official opening and closing price. See https://www.nyse.com/publicdocs/nyse/data/NYSE_BQT_Client_Specification_v2.3a.pdf.

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeBYX-2020-018 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-CboeBYX-2020-018. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All

submissions should refer to File Number SR-CboeBYX-2020-018, and should be submitted on or before July 20, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020-13869 Filed 6-26-20; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89126; File No. SR-CboeBZX-2020-050]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Content of the Cboe One Feed Under Rule 11.22(j) to Identify the Primary Listing Market's Official Opening and Closing Price

June 23, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 10, 2020, Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. ("BZX" or the "Exchange") is filing with the Securities and Exchange Commission (the "Commission") a proposed rule change to amend the content of the Cboe One Feed under Rule 11.22(j) to identify the primary listing market's official opening and closing price. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (<http://markets.cboe.com/us/>

equities/regulation/rule_filings/bzx/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the content of the Cboe One Feed under Rule 11.22(j) to identify the primary listing market's official opening and closing price. Additionally, the Exchange proposes to amend Rules 11.22(i) and (j) to make an administrative change so that the Rules reference Cboe rather than Bats.

The Cboe One Feed is a data feed that disseminates, on a real-time basis, the aggregate best bid and offer ("BBO") of all displayed orders for securities traded on BZX and its affiliated exchanges.⁵ Among other things, the Cboe One Feed also includes consolidated volume for all listed equity securities regardless of where the transaction was executed and the Cboe One Opening Price and the Cboe One Closing Price.⁶

⁵ BZX's affiliated exchanges are the Cboe BYX Exchange, Inc. ("BYX"), Cboe EDGA Exchange, Inc. ("EDGA"), and Cboe EDGX Exchange, Inc. ("EDGX", and together with BZX, BYX, and EDGA, the "Cboe Equity Exchanges"). See Securities Exchange Act Release No. 73918 (December 23, 2014), 79 FR 78920 (December 31, 2014) (File Nos. SR-EDGX-2014-25; SR-EDGA-2014-25; SR-BATS-2014-055; SR-BYX-2014-030) (Notice of Amendments No. 2 and Order Granting Accelerated Approval to Proposed Rule Changes, as Modified by Amendments Nos. 1 and 2, to Establish a New Market Data Product called the Cboe (formerly Bats) One Feed) ("Cboe One Approval Order").

⁶ For securities listed on Cboe BZX Exchange, Inc. ("BZX"), the Cboe One Opening Price shall be the BZX Official Opening Price as defined in BZX Rule 11.23(a)(5) and the Cboe One Closing Price shall be the BZX Official Closing Price as defined in BZX Rule 11.23(a)(3). For securities not listed on BZX, the Cboe One Opening Price shall be the first last sale eligible trade that occurred on the Exchange or any of its affiliates after 9:30 a.m. Eastern Time, and the Cboe One Closing Price shall be the final last sale eligible trade to occur on the Exchange or any

¹⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

Now, in addition to the information currently provided in the Cboe One Feed, the Exchange is proposing to include the primary listing market's official opening and closing price for all listed equity securities as obtained directly from the securities information processors. Such information would supplement the existing consolidated volume and Cboe One Opening/Closing Price information included in the Cboe One Feed by providing additional consolidated trade information. The official opening and closing price for all listed equity securities would be disseminated via the Cboe One Feed after the Consolidated Tape Association ("CTA") and Unlisted Trading Privileges ("UTP") Plan Securities Information Processor ("SIP") delay period, which is currently 15 minutes.

Additionally, the Exchange proposes to amend Rules 11.22(i) and (j) to eliminate any reference to Bats and replace such references with Cboe.

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.⁷ Specifically, the Exchange believes the proposed rule changes are consistent with the Section 6(b)(5)⁸ 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. The Exchange also believes that the proposed rule changes are consistent with Section 11(A) of the Act⁹ in that it supports (1) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets and (2) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Furthermore, the proposed rule changes are consistent with Rule 603 of

Regulation NMS,¹⁰ which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory. In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data products to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data.

The proposed change to Exchange Rule 11.22(j) is designed to promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system by identifying the primary listing market's official opening and closing price. Significant volumes typically occur in the primary listing market auctions, and the prices derived from those auctions are used as a reference price for various other instruments, including options and exchange-traded products. Therefore, official opening and closing price information would provide meaningful information to investors. The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with new options for receiving such information. The Exchange also notes that the primary listing market's official opening and closing price is currently included in a competing market data products offered by the New York Stock Exchange ("NYSE").¹¹ Therefore, the Exchange believes the proposed rule change removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest as it would provide an additional avenue for investors to receive this information from a competing product. The proposal would not permit unfair discrimination because the primary listing market's official opening and closing price will be available to all of the Exchange's customers and market data vendors on an equivalent basis. In addition, any customer that wishes to receive this

information via a different source will be able to do so.

The proposed administrative amendments to Exchange Rules 11.22(i) and (j) are designed remove impediments to and perfect the mechanism of a free and open market by accurately referencing Cboe rather than Bats. Further, a consistent reference to Cboe rather than Bats will help avoid potential investor confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed change to Rule 11.22(j) will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposed rule change will enhance competition because it would enable the Exchange to include primary listing market's official opening and closing price as part of the Cboe One Feed, thereby enabling it to better compete with similar market data products currently offered by NYSE that include such information.¹² The Exchange is not the exclusive distributor of the primary listing market's official opening and closing price, and a vendor seeking to offer a similar product that includes this information would be able to do so on the same terms as the Exchange. Specifically, a competing vendor could receive the primary listing market's official opening and closing price from the securities information processors and include that information as part of their market data products to be disseminated to customers pursuant to the same terms and policies as the Exchange.¹³ Therefore, the Exchange believes the inclusion of the primary listing market's official opening and closing price in the Cboe One Feed would not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe the proposed administrative changes to Exchange Rules 11.22(i) and (j) will have any impact on competition as it is merely designed to consistently and accurately refer to Cboe rather than Bats.

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.

¹² *Id.*

¹³ See CTA Consolidated Volume Display Policy with FAQ, *supra* note 6.

of its affiliates prior to 4:00 p.m. Eastern Time. See Exchange Rule 11.22(j).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78k-1.

¹⁰ See 17 CFR 242.603.

¹¹ Specifically, the NYSE BQT (Best Quote and Trade) proprietary feed includes the primary listing market's official opening and closing price. See https://www.nyse.com/publicdocs/nyse/data/NYSE_BQT_Client_Specification_v2.3a.pdf.

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 Act¹⁴ and Rule 19b-4(f)(6) thereunder.¹⁵

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeBZX-2020-050 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to File Number SR-CboeBZX-2020-050. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's

internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeBZX-2020-050, and should be submitted on or before July 20, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020-13870 Filed 6-26-20; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89130; File No. SR-CboeEDGA-2020-018]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend Certain Rules Within Rules 4.5 Through 4.16, Which Contain the Exchange's Compliance Rule ("Compliance Rule") Regarding the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan" or "Plan")

June 23, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 22, 2020, Cboe EDGA Exchange, Inc.

¹⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

("Exchange" or "EDGA") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGA Exchange, Inc. (the "Exchange" or "Cboe EDGA") proposes to amend certain Rules within Rules 4.5 through 4.16, which contain the Exchange's compliance rule ("Compliance Rule") regarding the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan" or "Plan") The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/equities/regulation/rule_filings/edga/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend the Consolidated Audit Trail ("CAT") Compliance Rule in Rules 4.5 through 4.16 to be consistent with certain proposed amendments to and exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems. As described more fully below, the proposed rule change would make the following changes to the Compliance Rule:

- Add additional data elements to the consolidated audit trail ("CAT")

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 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.

reporting requirements for Industry Members to facilitate the retirement of the Financial Industry Regulatory Authority, Inc.'s ("FINRA") Order Audit Trail System ("OATS");

- Add additional data elements related to OTC Equity Securities that FINRA currently receives from alternative trading systems ("ATSs") that trade OTC Equity Securities for regulatory oversight purposes to the CAT reporting requirements for Industry Members;

- Implement a phased approach for Industry Member reporting to the CAT ("Phased Reporting");

- To the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, revise the timestamp granularity requirement to require such Industry Member to record and report Industry Member Data to the Central Repository with time stamps in such finer increment up to nanoseconds;

- Require Introducing Industry Members (as defined below) to comply with the requirements of the CAT NMS Plan applicable to Small Industry Members;

- Revise the CAT reporting requirements so Industry Members would not be required to report to the Central Repository dates of birth, "individual tax payer identification number ("ITIN")/social security number ("SSN")" (collectively, referred to as "SSNs") or account numbers; and

- Revise the CAT reporting requirements regarding cancelled trades and SRO-Assigned Market Participant Identifiers of clearing brokers, if applicable, in connection with order executions, as such information will be available from FINRA's trade reports submitted to the CAT.

i. CAT-OATS Data Gaps

The Participants have worked to identify gaps between data reported to existing systems and data to be reported to the CAT to "ensure that by the time Industry Members are required to report to the CAT, the CAT will include all data elements necessary to facilitate the rapid retirement of duplicative systems."³ As a result of this process, the Participants identified several data elements that must be included in the CAT reporting requirements before existing systems can be retired. In

particular, the Participants identified certain data elements that are required by OATS, but not currently enumerated in the CAT NMS Plan. Accordingly, the Exchange proposes to amend its Compliance Rule to include these OATS data elements in the CAT. Each of such OATS data elements are discussed below. With the addition of these OATS data elements to the CAT, the CAT will have the data elements necessary to retire OATS.

A. Information Barrier Identification

The FINRA OATS rules require OATS Reporting Members⁴ to record the identification of information barriers for certain order events, including when an order is received or originated, transmitted to a department within the OATS Reporting Member, and when it is modified. The Participants propose to amend the Compliance Rule to incorporate these requirements into the CAT.

Specifically, FINRA Rule 7440(b)(20) requires a FINRA OATS Reporting Member to record the following when an order is received or originated: "if the member is relying on the exception provided in Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member where the order was received or originated."⁵ The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS-CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(vii) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for original receipt or origination of an order, "the unique identification of any appropriate information barriers in place at the department within the Industry Member where the order was received or originated."

In addition, FINRA Rule 7440(c)(1) states that "[w]hen a Reporting Member transmits an order to a department within the member, the Reporting Member shall record: . . . (H) if the member is relying on the exception provided in Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member to which the order was transmitted." The Compliance Rule does not require Industry Members to report such information barrier

information. To address this OATS-CAT data gap, the Exchange proposes to revise paragraph (a)(1)(B)(vi) of Rule 4.7 to require, for the routing of an order, if routed internally at the Industry Member, "the unique identification of any appropriate information barriers in place at the department within the Industry Member to which the order was transmitted."

FINRA Rule 7440(c)(2)(B) and 7440(c)(4)(B) require an OATS Reporting Member that receives an order transmitted from another member to report the unique identification of any appropriate information barriers in place at the department within the member to which the order was transmitted. The Compliance Rule not require Industry Members to report such information barrier information. To address this OATS-CAT data gap, the Exchange proposes to add new paragraph (a)(1)(C)(vii) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for the receipt of an order that has been routed, "the unique identification of any appropriate information barriers in place at the department within the Industry Member which received the order."

FINRA Rule 7440(d)(1) requires an OATS Reporting Member that modifies or receives a modification to the terms of an order to report the unique identification of any appropriate information barriers in place at the department within the member to which the modification was originated or received. The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS-CAT data gap, the Exchange proposes to add new paragraph (a)(1)(D)(vii) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, if the order is modified or cancelled, "the unique identification of any appropriate information barriers in place at the department within the Industry Member which received or originated the modification."

B. Reporting Requirements for ATSs

Under FINRA Rule 4554, ATSs that receive orders in NMS stocks are required to report certain order information to OATS, which FINRA uses to reconstruct ATS order books and perform order-based surveillance, including layering, spoofing, and mid-point pricing manipulation surveillance.⁶ The Participants believe

³ Letter from Participants to Brent J. Fields, Secretary, SEC, re: File Number 4-698; Notice of Filing of the National Market System Plan Governing the Consolidated Audit Trail (September 23, 2016) at 21 ("Participants' Response to Comments") (available at <https://www.sec.gov/comments/4-698/4698-32.pdf>).

⁴ An OATS "Reporting Member" is defined in FINRA Rule 7410(o).

⁵ FINRA Rule 5320 prohibits trading ahead of customer orders.

⁶ See *FINRA Regulatory Notice* 16-28 (August 2016).

that Industry Members operating ATSs—whether such ATS trades NMS stocks or OTC Equity Securities—should likewise be required to report this information to the CAT. Because ATSs that trade NMS stocks are already recording this information and reporting it to OATS, the Participants believe that reporting the same information to the CAT should impose little burden on these ATSs. Moreover, including this information in the CAT is also necessary for FINRA to be able to retire the OATS system. The Participants similarly believe that obtaining the same information from ATSs that trade OTC Equity Securities will be important for purposes of reconstructing ATS order books and surveillance. Accordingly, the Exchange proposes to add to the data reporting requirements in the Compliance Rule the reporting requirements for ATSs in FINRA Rule 4554,⁷ but to expand such requirements so that they are applicable to all ATSs rather than solely to ATSs that trade NMS stocks.

(i) New Definition

The Exchange proposes to add a definition of “ATS” to new paragraph (d) of Rule 4.5 to facilitate the addition to the CAT of the reporting requirements for ATSs set forth in FINRA Rule 4554. The Exchange proposes to define an “ATS” to mean “an alternative trading system, as defined in Rule 300(a)(1) of Regulation ATS under the Exchange Act.”

(ii) ATS Order Type

FINRA Rule 4554(b)(5) requires the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

A unique identifier for each order type offered by the ATS. An ATS must provide FINRA with (i) a list of all of its order types 20 days before such order types become effective and (ii) any changes to its order types 20 days before such changes become effective. An identifier shall not be required for market and limit orders that have no other special handling instructions.

⁷ FINRA Rule 4554 was approved by the SEC on May 10, 2016, while the CAT NMS Plan was pending with the Commission. See Securities Exchange Act Release No. 77798 (May 10, 2016), 81 FR 30395 (May 16, 2016) (Order Approving SR-FINRA-2016-010). As noted in the Participants’ Response to Comments, throughout the process of developing the Plan, the Participants worked to keep the gap analyses for OATS, electronic blue sheets, and the CAT up-to-date, which included adding data fields related to the tick size pilot and ATS order book amendments to the OATS rules. See Participants’ Response to Comments at 21. However, due to the timing of the expiration of the tick size pilot, the Participants decided not to include those data elements into the CAT NMS Plan.

The Compliance Rule does not require Industry Members to report such order type information to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate these requirements into four new provisions to the Compliance Rule: Paragraphs (a)(1)(A)(xi)(a), (a)(1)(C)(x)(a), (a)(1)(D)(ix)(a) and (a)(2)(D) of Rule 4.7.

Proposed paragraph (a)(1)(A)(xi)(a) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository for the original receipt or origination of an order “the ATS’s unique identifier for the order type of the order.” Proposed paragraph (a)(1)(C)(x)(a) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository for the receipt of an order that has been routed “the ATS’s unique identifier for the order type of the order.” Proposed paragraph (a)(1)(D)(ix)(a) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository if the order is modified or cancelled “the ATS’s unique identifier for the order type of the order.” Furthermore, as with the requirements in FINRA Rule 4554(b)(5), proposed paragraph (a)(2)(D) of Rule 4.7 would state that:

An Industry Member that operates an ATS must provide to the Central Repository: (1) A list of all of its order types twenty (20) days before such order types become effective; and (2) any changes to its order types twenty (20) days before such changes become effective. An identifier shall not be required for market and limit orders that have no other special handling instructions.

(iii) National Best Bid and Offer

FINRA Rules 4554(b)(6) and (7) require the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

(6) The NBBO (or relevant reference price) in effect at the time of order receipt and the timestamp of when the ATS recorded the effective NBBO (or relevant reference price); and

(7) Identification of the market data feed used by the ATS to record the NBBO (or other reference price) for purposes of subparagraph (6). If for any reason, the ATS uses an alternative feed than what was reported on its ATS data submission, the ATS must notify FINRA of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Similarly, FINRA Rule 4554(c) requires the following information to be recorded and reported to FINRA by

ATSs when reporting the execution of an order to OATS:

(1) The NBBO (or relevant reference price) in effect at the time of order execution;

(2) The timestamp of when the ATS recorded the effective NBBO (or relevant reference price); and

(3) Identification of the market data feed used by the ATS to record the NBBO (or other reference price) for purposes of subparagraph (1). If for any reason, the ATS uses an alternative feed than what was reported on its ATS data submission, the ATS must notify FINRA of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

The Compliance Rule does not require Industry Members to report such NBBO information to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate these requirements into four new provisions to the Compliance Rule: (a)(1)(A)(xi)(b)–(c), (a)(1)(C)(x)(b)–(c), (a)(1)(D)(ix)(b)–(c) and (a)(1)(E)(viii)(a)–(b) of Rule 4.7.

Specifically, proposed paragraph (a)(1)(A)(xi)(b)–(c) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository the following information when reporting the original receipt or origination of order:

(2) the National Best Bid and National Best Offer (or relevant reference price) at the time of order receipt or origination, and the date and time at which the ATS recorded such National Best Bid and National Best Offer (or relevant reference price);

(3) the identification of the market data feed used by the ATS to record the National Best Bid and National Best Offer (or relevant reference price) for purposes of subparagraph (xi)(b). If for any reason the ATS uses an alternative market data feed than what was reported on its ATS data submission, the ATS must provide notice to the Central Repository of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Similarly, proposed paragraphs (a)(1)(C)(x)(b)–(c), (a)(1)(D)(ix)(b)–(c) and (a)(1)(E)(viii)(a)–(b) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository the same information when reporting receipt of an order that has been routed, when reporting if the order is modified or cancelled, and when an order has been executed, respectively.

(iv) Sequence Numbers

FINRA Rule 4554(d) states that “[f]or all OATS-reportable event types, all ATSs must record and report to FINRA the sequence number assigned to the

order event by the ATS's matching engine." The Compliance Rule does not require Industry Members to report ATS sequence numbers to the Central Repository. To address this OATS-CAT data gap, the Exchange proposes to incorporate this requirement regarding ATS sequence numbers into each of the Reportable Events for the CAT.

Specifically, the Exchange proposes to add proposed paragraph (a)(1)(A)(xi)(d) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository "the sequence number assigned to the receipt or origination of the order by the ATS's matching engine." The Exchange proposes to add proposed paragraph (a)(1)(B)(viii) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository "the sequence number assigned to the routing of the order by the ATS's matching engine." The Exchange also proposes to add proposed paragraph (a)(1)(C)(x)(d) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository "the sequence number assigned to the receipt of the order by the ATS's matching engine." In addition, the Exchange proposes to add proposed paragraph (a)(1)(D)(ix)(d) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository "the sequence number assigned to the modification or cancellation of the order by the ATS's matching engine." Finally, the Exchange proposes to add proposed paragraph (a)(1)(E)(viii)(c) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository "the sequence number assigned to the execution of the order by the ATS's matching engine."

(v) Modification or Cancellation of Orders by ATSs

FINRA Rule 4554(f) states that "[f]or an ATS that displays subscriber orders, each time the ATS's matching engine re-prices a displayed order or changes the display quantity of a displayed order, the ATS must report to OATS the time of such modification," and "the applicable new display price or size." The Exchange proposes adding a comparable requirement into new paragraph (a)(1)(D)(ix)(e) to Rule 4.7. Specifically, proposed new paragraph (a)(1)(D)(ix)(e) of Rule 4.7 would require an Industry Member that operates an ATS to report to the Central Repository, if the order is modified or cancelled, "each time the ATS's matching engine

re-prices an order or changes the quantity of an order," the ATS must report to the Central Repository "the time of such modification, and the applicable new price or size." Proposed paragraph (a)(1)(D)(ix)(e) of Rule 4.7 would apply to all ATSs, not just ATSs that display orders.

(vi) Display of Subscriber Orders

FINRA Rule 4554(b)(1) requires the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

Whether the ATS displays subscriber orders outside the ATS (other than to alternative trading system employees). If an ATS does display subscriber orders outside the ATS (other than to alternative trading system employees), indicate whether the order is displayed to subscribers only or through publicly disseminated quotation data;

The Compliance Rule does not require Industry Members to report to the CAT such information about the displaying of subscriber orders. The Exchange proposes to add comparable requirements into proposed paragraphs (a)(1)(A)(xi)(e) and (a)(1)(C)(x)(e) of Rule 4.7. Specifically, proposed paragraph (a)(1)(A)(xi)(e) would require an Industry Member that operates an ATS to report to the Central Repository, for the original receipt or origination of an order,

whether the ATS displays subscriber orders outside the ATS (other than to alternative trading system employees). If an ATS does display subscriber orders outside the ATS (other than to alternative trading system employees), indicate whether the order is displayed to subscribers only or through publicly disseminated quotation data.

Similarly, proposed paragraph (a)(1)(C)(x)(e) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository the same information when reporting receipt of an order that has been routed.

C. Customer Instruction Flag

FINRA Rule 7440(b)(14) requires a FINRA OATS Reporting Member to record the following when an order is received or originated: "any request by a customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules." The Compliance Rule does not require Industry Members to report to the CAT such a customer instruction flag. To address this OATS-CAT data gap, the Exchange proposes to add paragraph (a)(1)(A)(viii) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for original receipt or

origination of an order, "any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules." The Exchange also proposes to add paragraph (a)(1)(C)(ix) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for the receipt of an order that has been routed, "any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules."

FINRA Rule 7440(d)(1) requires an OATS Reporting Member that modifies or receives a modification of an order to report the customer instruction flag. The Compliance Rule does not require Industry Members to report such a customer instruction flag. To address this OATS-CAT data gap, the Exchange proposes to add paragraph (a)(1)(D)(viii) to Rule 4.7 which would require Industry Members to record and report to the Central Repository, if the order is modified or cancelled, "any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules."

D. Department Type

FINRA Rules 7440(b)(4) and (5) require an OATS Reporting Member that receives or originates an order to record the following information: "the identification of any department or the identification number of any terminal where an order is received directly from a customer" and "where the order is originated by a Reporting Member, the identification of the department of the member that originates the order." The Compliance Rule does not require Industry Members to report to the CAT information regarding the department or terminal where the order is received or originated. To address this OATS-CAT data gap, the Exchange proposes to add paragraph (a)(1)(A)(ix) to Rule 4.7, which would require Industry Members to record and report to the Central Repository upon the original receipt or origination of an order "the nature of the department or desk that originated the order, or received the order from a Customer."

Similarly, per FINRA Rules 7440(c)(2)(B) and (4)(B), when an OATS Reporting Member receives an order that has been transmitted by another Member, the receiving OATS Reporting Member is required to record the information required in 7440(b)(4) and (5) described above as applicable. The Compliance Rule does not require Industry Members to report to the CAT information regarding the department

that received an order. To address this OATS–CAT data gap, the Exchange propose to add paragraph (a)(1)(C)(viii) to Rule 4.7 which would require Industry Members to record and report to the Central Repository upon the receipt of an order that has been routed “the nature of the department or desk that received the order.”

E. Account Holder Type

FINRA Rule 7440(b)(18) requires an OATS Reporting Member that receives or originates an order to record the following information: “the type of account, *i.e.*, retail, wholesale, employee, proprietary, or any other type of account designated by FINRA, for which the order is submitted.” The Compliance Rule does not require Industry Members to report to the CAT information regarding the type of account holder for which the order is submitted. To address this OATS–CAT data gap, the Exchange proposes to add paragraph (a)(1)(A)(x) to Rule 4.7, which would require Industry Members to record and report to the Central Repository upon the original receipt or origination of an order “the type of account holder for which the order is submitted.”

ii. OTC Equity Securities

The Participants have identified several data elements related to OTC Equity Securities that FINRA currently receives from ATSs that trade OTC Equity Securities for regulatory oversight purposes, but are not currently included in CAT Data. In particular, the Participants identified three data elements that need to be added to the CAT: (1) Bids and offers for OTC Equity Securities; (2) a flag indicating whether a quote in OTC Equity Securities is solicited or unsolicited; and (3) unpriced bids and offers in OTC Equity Securities. The Participants believe that such data will continue to be important for regulators to oversee the OTC Equity Securities market when using the CAT. Moreover, the Participants do not believe that the proposed requirement would burden ATSs because they currently report this information to FINRA and thus the reporting requirement would merely shift from FINRA to the CAT. Accordingly, as discussed below, the Exchange proposes to amend its Compliance Rule to include these data elements.

A. Bids and Offers for OTC Equity Securities

In performing its current regulatory oversight, FINRA receives a data feed of the best bids and offers in OTC Equity Securities from ATSs that trade OTC

Equity Securities. These best bid and offer data feeds for OTC Equity Securities are similar to the best bid and offer SIP Data required to be collected by the Central Repository with regard to NMS Securities.⁸ Accordingly, the Exchange proposes to add paragraph (f)(1) to Rule 4.7 to require the reporting of the best bid and offer data feeds for OTC Equity Securities to the CAT. Specifically, proposed paragraph (f)(1) of Rule 4.7 would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository “the best bid and best offer for each OTC Equity Security traded on such ATS.”

B. Unsolicited Bid or Offer Flag

FINRA also receives from ATSs that trade OTC Equity Securities an indication whether each bid or offer in OTC Equity Securities on such ATS was solicited or unsolicited. Therefore, the Exchange proposes to add paragraph (f)(2) to Rule 4.7 to require the reporting to the CAT of an indication as to whether a bid or offer was solicited or unsolicited. Specifically, proposed paragraph (f)(2) of Rule 4.7 would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository “an indication of whether each bid and offer for OTC Equity Securities was solicited or unsolicited.”

C. Unpriced Bids and Offers

FINRA receives from ATSs that trade OTC Equity Securities certain unpriced bids and offers for each OTC Equity Security traded on the ATS. Therefore, the Exchange proposes to add paragraph (f)(3) to Rule 4.7, which would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository “the unpriced bids and offers for each OTC Equity Security traded on such ATS.”

iii. Revised Industry Member Reporting Timeline

On February 19, 2020, the Participants filed with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to allow for the implementation of phased reporting to the CAT by Industry Members (“Phased Reporting”).⁹ Specifically, in their exemptive request,

the Participants requested that the SEC exempt each Participant from the requirement in Section 6.7(a)(v) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require its Industry Members other than Small Industry Members (“Large Industry Members”) to report to the Central Repository Industry Member Data within two years of the Effective Date (that is, by November 15, 2018). In addition, the Participants requested that the SEC exempt each Participant from the requirement in Section 6.7(a)(vi) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require its Small Industry Members¹⁰ to report to the Central Repository Industry Member Data within three years of the Effective Date (that is, by November 15, 2019). Correspondingly, the Participants requested that the SEC provide an exemption from the requirement in Section 6.4 of the CAT NMS Plan that “[t]he requirements for Industry Members under this Section 6.4 shall become effective on the second anniversary of the Effective Date in the case of Industry Members other than Small Industry Members, or the third anniversary of the Effective Date in the case of Small Industry Members.” On April 20, 2020, the SEC granted the Participants exemptive relief to implement Phased Reporting, subject to certain timeline changes and conditions.¹¹

As a condition to the exemption, each Participant would implement Phased Reporting through its Compliance Rule by requiring:

(1) its Large Industry Members and its Small Industry Members that are required to record or report information to OATS pursuant to applicable SRO rules (“Small Industry OATS Reporters”) to commence reporting to the Central Repository Phase 2a Industry Member Data by June 22, 2020, and its Small Industry Non-OATS Reporters to commence reporting to the Central Repository Phase 2a Industry Member Data by December 13, 2021;

(2) its Large Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data

¹⁰ See Section 1.1 of the CAT NMS Plan.

¹¹ See Securities Exchange Act Release No. 88702 (April 20, 2020), 85 FR 23075 (April 24, 2020). As discussed in the SEC’s exemptive order, the Commission granted the Participants conditional exemptive relief from the CAT NMS Plan so that the Compliance Rules may require Phase 2a reporting to commence on June 22, 2020, rather than the April 20, 2020 date set forth in the exemptive request, and Phase 2b reporting to commence on July 20, 2020, rather than the May 18, 2020 date set forth in the exemptive request. As a condition to the exemptive relief, Industry Members who elect to report to the CAT prior to such dates will be permitted to report to the CAT as early as April 20, 2020 for Phase 2a reporting and as early as May 18, 2020 for Phase 2b reporting.

⁸ Section 6.5(a)(ii) of the CAT NMS Plan.

⁹ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Industry Member Reporting Dates (Feb. 19, 2020).

by July 20, 2020, and its Small Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data by December 13, 2021;

(3) its Large Industry Members to commence reporting to the Central Repository Phase 2c Industry Member Data by April 26, 2021, and its Small Industry Members to commence reporting to the Central Repository Phase 2c Industry Member Data by December 13, 2021;

(4) its Large Industry Members and Small Industry Members to commence reporting to the Central Repository Phase 2d Industry Member Data by December 13, 2021; and

(5) its Large Industry Members and Small Industry Members to commence reporting to the Central Repository Phase 2e Industry Member Data by July 11, 2022.

The full scope of CAT Data required under the CAT NMS Plan will be required to be reported when all five phases of the Phased Reporting have been implemented, subject to any applicable exemptive relief or amendments related to the CAT NMS Plan.

As a further condition to the exemption, each Participant proposes to implement the testing timelines described in Section F below through its Compliance Rule by requiring the following:

(1) Industry Member file submission and data integrity testing for Phases 2a and 2b begins in December 2019.

(2) Industry Member testing of the Reporter Portal, including data integrity error correction tools and data submissions, begins in February 2020.

(3) The Industry Member test environment will be open with intra-firm linkage validations to Industry Members for both Phases 2a and 2b in April 2020.

(4) The Industry Member test environment will be open to Industry Members with inter-firm linkage validations for both Phases 2a and 2b in July 2020.

(5) The Industry Member test environment will be open to Industry Members with Phase 2c functionality (full representative order linkages) in January 2021.

(6) The Industry Member test environment will be open to Industry Members with Phase 2d functionality (manual options orders, complex options orders, and options allocations) in June 2021.

(7) Participant exchanges that support options market making quoting will begin accepting Quote Sent Time on quotes from Industry Members no later than April 2020.

(8) The Industry Member test environment (customer and account information) will be open to Industry Members in January 2022.

As a result, the Exchange proposes to amend its Compliance Rule to be consistent with the exemptive relief to implement Phased Reporting as described below.

A. Phase 2a

In the first phase of Phased Reporting, referred to as Phase 2a, Large Industry Members and Small Industry OATS Reporters would be required to report to

the Central Repository "Phase 2a Industry Member Data" by June 22, 2020.¹² To implement the Phased Reporting for Phase 2a, the Exchange proposes to add paragraph (t)(1) of Rule 4.5 (previously paragraph (s)) and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Reporting in Phase 2a

To implement the Phased Reporting with respect to Phase 2a, the Exchange proposes to add a definition of "Phase 2a Industry Member Data" as paragraph (t)(1) of Rule 4.5. Specifically, the Exchange proposes to define the term "Phase 2a Industry Member Data" as "Industry Member Data required to be reported to the Central Repository commencing in Phase 2a." Phase 2a Industry Member Data would include Industry Member Data solely related to Eligible Securities that are equities. While the following summarizes categories of Industry Member Data required for Phase 2a, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2a.¹³

Phase 2a Industry Member Data would include all events and scenarios covered by OATS. FINRA Rule 7440 describes the OATS requirements for recording information, which includes information related to the receipt or origination of orders, order transmittal, and order modifications, cancellations and executions. Large Industry Members and Small Industry OATS Reporters would be required to submit data to the CAT for these same events and scenarios during Phase 2a. The inclusion of all OATS events and scenarios in the CAT is intended to facilitate the retirement of OATS.

Phase 2a Industry Member Data also would include Reportable Events for:

- Proprietary orders, including market maker orders, for Eligible Securities that are equities;
- electronic quotes in listed equity Eligible Securities (*i.e.*, NMS stocks) sent to a national securities exchange or FINRA's Alternative Display Facility ("ADF");
- electronic quotes in unlisted Eligible Securities (*i.e.*, OTC Equity

¹² Small Industry Members that are not required to record and report information to FINRA's OATS pursuant to applicable SRO rules ("Small Industry Non-OATS Reporters") would be required to report to the Central Repository "Phase 2a Industry Member Data" by December 13, 2021, which is approximately seventeen months after Large Industry Members and Small Industry OATS Reporters begin reporting.

¹³ The items required to be reported commencing in Phase 2a do not include the items required to be reported in Phase 2c or Phase 2d, as discussed below.

Securities) received by an Industry Member operating an interdealer quotation system ("IDQS"); and

- electronic quotes in unlisted Eligible Securities sent to an IDQS or other quotation system not operated by a Participant or Industry Member.

Phase 2a Industry Member Data would include Firm Designated IDs. During Phase 2a, Industry Members would be required to report Firm Designated IDs to the CAT, as required by paragraphs (a)(1)(A)(i), and (a)(2)(C) of Rule 4.7. Paragraph (a)(1)(A)(i) of Rule 4.7 requires Industry Members to submit the Firm Designated ID for the original receipt or origination of an order. Paragraph (a)(2)(C) of Rule 4.7 requires Industry Members to record and report to the Central Repository, for original receipt and origination of an order, the Firm Designated ID if the order is executed, in whole or in part.

In Phase 2a, Industry Members would be required to report all street side representative orders, including both agency and proprietary orders and mark such orders as representative orders, except in certain limited exceptions as described in the Industry Member Technical Specifications. A representative order is an order originated in a firm owned or controlled account, including principal, agency average price and omnibus accounts, by an Industry Member for the purpose of working one or more customer or client orders.

In Phase 2a, Industry Members would be required to report the link between the street side representative order and the order being represented when: (1) The representative order was originated specifically to represent a single order received either from a customer or another broker-dealer; and (2) there is (a) an existing direct electronic link in the Industry Member's system between the order being represented and the representative order and (b) any resulting executions are immediately and automatically applied to the represented order in the Industry Member's system.

Phase 2a Industry Member Data also would include the manual and Electronic Capture Time for Manual Order Events. Specifically, for each Reportable Event in Rule 4.7, Industry Members would be required to provide a timestamp pursuant to Rule 4.10. Rule 4.10(b)(i) states that

Each Industry Member may record and report: Manual Order Events to the Central Repository in increments up to and including one second, provided that each Industry Members shall record and report the time when a Manual Order Event has been captured electronically in an order handling

and execution system of such Industry Member ("Electronic Capture Time") in milliseconds.

Accordingly, for Phase 2a, Industry Members would be required to provide both the manual and Electronic Capture Time for Manual Order Events.¹⁴

Industry Members would be required to report special handling instructions for the original receipt or origination of an order during Phase 2a. In addition, during Phase 2a, Industry Members will be required to report, when routing an order, whether the order was routed as an intermarket sweep order ("ISO"). Industry Members would be required to report special handling instructions on routes other than ISOs in Phase 2c, rather than Phase 2a.

In Phase 2a, Industry Members would not be required to report modifications of a previously routed order in certain limited instances. Specifically, if a trader or trading software modifies a previously routed order, the routing firm is not required to report the modification of an order route if the destination to which the order was routed is a CAT Reporter that is required to report the corresponding order activity. If, however, the order was modified by a Customer or other non-CAT Reporter, and subsequently the routing Industry Members sends a modification to the destination to which the order was originally routed, then the routing Industry Member must report the modification of the order route.¹⁵ In addition, in Phase 2a, Industry Members would not be required to report a cancellation of an order received from a Customer after the order has been executed.

(ii) Timing of Phase 2a Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2a for Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(A) of Rule 4.16, which would state, in relevant part, that "Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: (A) Phase

2a Industry Member Data by June 22, 2020."

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2a for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 4.16 with new paragraphs (c)(2)(A) and (B) of Rule 4.16. Proposed paragraph (c)(2)(A) of Rule 4.16 would state that

Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: (A) Small Industry Members that are required to record or report information to FINRA's Order Audit Trail System pursuant to applicable SRO rules ("Small Industry OATS Reporter") to report to the Central Repository Phase 2a Industry Member Data by June 22, 2020.

Proposed paragraph (c)(2)(B) of Rule 4.16 would state that "Small Industry Members that are not required to record or report information to FINRA's Order Audit Trail System pursuant to applicable SRO rules ("Small Industry Non-OATS Reporter") to report to the Central Repository Phase 2a Industry Member Data by December 13, 2021."

B. Phase 2b

In the second phase of the Phased Reporting, referred to as Phase 2b, Large Industry Members would be required to report to the Central Repository "Phase 2b Industry Member Data" by July 20, 2020. Small Industry Members would be required to report to the Central Repository "Phase 2b Industry Member Data" by December 13, 2021, which is approximately seventeen months after Large Industry Members begin reporting such data to the Central Repository. To implement the Phased Reporting for Phase 2b, the Exchange proposes to add paragraph (t)(2) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2b Reporting

To implement the Phased Reporting with respect to Phase 2b, the Exchange proposes to add a definition of "Phase 2b Industry Member Data" as paragraph (t)(2) to Rule 4.5. Specifically, the Exchange proposes to define the term "Phase 2b Industry Member Data" as "Industry Member Data required to be reported to the Central Repository commencing in Phase 2b." Phase 2b Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2b. While the following summarizes the categories of Industry Member Data required for Phase 2b, the Industry Member

Technical Specifications provide detailed guidance regarding the reporting for Phase 2b.

Phase 2b Industry Member Data would include Industry Member Data related to Eligible Securities that are options and related to simple electronic option orders, excluding electronic paired option orders.¹⁶ A simple electronic option order is an order to buy or sell a single option that is not related to or dependent on any other transaction for pricing and timing of execution that is either received or routed electronically by an Industry Member. Electronic receipt of an order is defined as the initial receipt of an order by an Industry Member in electronic form in standard format directly into an order handling or execution system. Electronic routing of an order is the routing of an order via electronic medium in standard format from one Industry Member's order handling or execution system to an exchange or another Industry Member. An electronic paired option order is an electronic option order that contains both the buy and sell side that is routed to another Industry Member or exchange for crossing and/or price improvement as a single transaction on an exchange. Responses to auctions of simple orders and paired simple orders are also reportable in Phase 2b.

Furthermore, combined orders in options would be treated in Phase 2b in the same way as equity representative orders are treated in Phase 2a. A combined order would mean, as permitted by Exchange rules, a single, simple order in Listed Options created by combining individual, simple orders in Listed Options from a customer with the same exchange origin code before routing to an exchange. During Phase 2b, the single combined order sent to an exchange must be reported and marked as a combined order, but the linkage to the underlying orders is not required to be reported until Phase 2d.

(ii) Timing of Phase 2b Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2b for Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(B) of Rule 4.16, which would state, in relevant part, that "Each Industry Member (other than a Small

¹⁴ Industry Members would be required to provide an Electronic Capture Time following the manual capture time only for new orders that are Manual Order Events and, in certain instances, routes that are Manual Order Events. The Electronic Capture Time would not be required for other Manual Order Events.

¹⁵ This approach is comparable to the approach set forth in OATS Compliance FAQ 35.

¹⁶ The items required to be reported in Phase 2b do not include the items required to be reported in Phase 2d, as discussed below in Section A.4.

Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (B) Phase 2b Industry Member Data by July 20, 2020.”

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2b for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that “Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Small Industry Members to report to the Central Repository Phase 2b Industry Member Data . . . by December 13, 2021.”

C. Phase 2c

In the third phase of the Phased Reporting, referred to as Phase 2c, Large Industry Members would be required to report to the Central Repository “Phase 2c Industry Member Data” by April 26, 2021. Small Industry Members would be required to report to the Central Repository “Phase 2c Industry Member Data” by December 13, 2021, which is approximately seven months after Large Industry Members begin reporting such data to the Central Repository. To implement the Phased Reporting for Phase 2c, the Exchange proposes to add paragraph (t)(3) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2c Reporting

To implement the Phased Reporting with respect to Phase 2c, the Exchange proposes to add a definition of “Phase 2c Industry Member Data” as paragraph (t)(3) to Rule 4.5. Specifically, the Exchange proposes to define the term “Phase 2c Industry Member Data” as “Industry Member Data required to be reported to the Central Repository commencing in Phase 2c.” Phase 2c Industry Member Data” would be Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data, Phase 2d Industry Member Data or Phase 2e Industry Member Data. Phase 2c Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2c. While the following summarizes the categories of Industry Member Data required for Phase 2c, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2c.

Phase 2c Industry Member Data would include Industry Member Data that is related to Eligible Securities that are equities and that is related to: (1) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (2) quotes in unlisted Eligible Securities sent to an IDQS operated by a CAT Reporter (reportable by the Industry Member sending the quotes) (except for quotes reportable in Phase 2d, as discussed below); (3) electronic quotes in listed equity Eligible Securities (*i.e.*, NMS stocks) that are not sent to a national securities exchange or FINRA’s Alternative Display Facility; (4) reporting changes to client instructions regarding modifications to algorithms; (5) marking as a representative order any order originated to work a customer order in price guarantee scenarios, such as a guaranteed VWAP; (6) flagging rejected external routes to indicate a route was not accepted by the receiving destination; (7) linkage of duplicate electronic messages related to a Manual Order Event between the electronic event and the original manual route; (8) special handling instructions on order route reports (other than the ISO, which is required to be reported in Phase 2a); (9) quote identifier on trade events; (10) reporting of large trader identifiers¹⁷ (“LTID”) (if applicable) for accounts with Reportable Events that are reportable to CAT as of and including Phase 2c; (11) reporting of date account opened or Account Effective Date¹⁸ (as applicable) for accounts and flag indicating the Firm Designated ID type as account or relationship; (12) order effective time for orders that are received by an Industry Member and do not become effective until a later time; (13) the modification or cancellation of an internal route of an order; and (14) linkages to the customer order(s) being represented for all representative order scenarios, including agency average price trades, net trades, aggregated orders, and disconnected Order

¹⁷ See definition of “Customer Account Information” in Section 1.1 of the CAT NMS Plan. See also Rule 13h–1 under the Exchange Act.

¹⁸ See definition of “Customer Account Information” and “Account Effective Date” in Section 1.1 of the CAT NMS Plan. Note that the Exchange also proposes to amend the dates in the definitions of “Account Effective Date” and “Customer Account Information” to reflect the Phased Reporting. Specifically, the Exchange proposes to amend paragraph (m)(2) of Rule 4.5 to replace the references to November 15, 2018 and 2019 with references to the commencement of Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2)–(5) of Rule 6810 regarding the definition of “Account Effective Date” with similar changes to the dates set forth therein.

Management System (“OMS”)—Execution Management System (“EMS”) scenarios, as required in the Industry Member Technical Specifications.¹⁹

Phase 2c Industry Member Data also includes electronic quotes that are provided by or received in a CAT Reporter’s order/quote handling or execution systems in Eligible Securities that are equities and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: (1) An equity bid or offer is displayed publicly or has been communicated (a) for listed securities to the Alternative Display Facility (ADF) operated by FINRA; or (b) for unlisted equity securities to an “inter-dealer quotation system” as defined in FINRA Rule 6420(c); or (2) an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing; *i.e.*, no further manual or electronic action is required by the responder providing the quote in order to execute or cause a trade to be executed). With respect to OTC Equity Securities, OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter (other than such an IDQS that does not match and execute orders) are reportable by the Industry Member sending them in Phase 2c. Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.*, FIX) that meets this quote definition (*i.e.*, an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing) would be reportable in Phase 2c.

(ii) Timing of Phase 2c Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2c for Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(C) of Rule 4.16, which would state, in relevant part, that “Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the

¹⁹ In Phase 2c, for any scenarios that involve orders originated in different systems that are not directly linked, such as a customer order originated in an OMS and represented by a principal order originated in an EMS that is not linked to the OMS, marking and linkages must be reported as required in the Industry Member Technical Specifications.

Central Repository, as follows: . . . (C) Phase 2c Industry Member Data by April 26, 2021.”

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2c for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that “Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Small Industry Members to report to the Central Repository . . . Phase 2c Industry Member Data . . . by December 13, 2021.”

D. Phase 2d

In the fourth phase of the Phased Reporting, referred to as Phase 2d, Large Industry Members and Small Industry Members would be required to report to the Central Repository “Phase 2d Industry Member Data” by December 13, 2021. To implement the Phased Reporting for Phase 2d, the Exchange proposes to add paragraph (t)(4) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2d Reporting

To implement the Phased Reporting with respect to Phase 2d, the Exchange proposes to add a definition of “Phase 2d Industry Member Data” as paragraph (t)(4) to Rule 6.5. Specifically, the Exchange proposes to define the term “Phase 2d Industry Member Data” as “Industry Member Data required to be reported to the Central Repository commencing in Phase 2d.”²⁰

“Phase 2d Industry Member Data” is Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data, Industry Member Data that is related to Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2c Industry Member Data, and Industry Member Data other than Phase 2e Industry Member Data. Phase 2d Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2d. While the following summarizes the categories of

Industry Member Data required for Phase 2d, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2d.

Phase 2d Industry Member Data includes with respect to the Eligible Securities that are options: (1) Simple manual orders; (2) electronic and manual paired orders; (3) all complex orders with linkages to all CAT-reportable legs; (4) LTIDs (if applicable) for accounts with Reportable Events for Phase 2d; (5) date account opened or Account Effective Date (as applicable) for accounts with an LTID and flag indicating the Firm Designated ID type as account or relationship for such accounts;²¹ (6) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (7) the modification or cancellation of an internal route of an order; and (8) linkage between a combined order and the original customer orders.

Phase 2d Industry Member Data also would include electronic quotes that are provided by or received in a CAT Reporter’s order/quote handling or execution systems in Eligible Securities that are options and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: A listed option bid or offer which is accessible electronically by customers or other market participants and is immediately actionable (*i.e.*, no further action is required by the responder providing the quote in order to execute or cause a trade to be executed). Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.*, FIX) that meets this definition would be reportable in Phase 2d for options.

Phase 2d Industry Member Data also would include with respect to Eligible Securities that are options or equities (1) receipt time of cancellation and modification instructions through Order Cancel Request and Order Modification Request events; (2) modifications of previously routed orders in certain

instances; and (3) OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter that does not match and execute orders. In addition, subject to any exemptive or other relief, Phase 2d Industry Member Data will include verbal or manual quotes on an exchange floor or in the over-the-counter market, where verbal quotes and manual quotes are defined as bids or offers in Eligible Securities provided verbally or that are provided or received other than via a CAT Reporter’s order handling and execution system (*e.g.*, quotations provided via email or instant messaging).

(ii) Timing of Phase 2d Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2d for Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(D) of Rule 4.16, which would state, in relevant part, that “[e]ach Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (D) Phase 2d Industry Member Data by December 13, 2021.”

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2d for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that “Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Small Industry Members to report to the Central Repository . . . Phase 2d Industry Member Data by December 13, 2021.”

E. Phase 2e

In the fifth phase of Phased Reporting, referred to as Phase 2e, both Large Industry Members and Small Industry Members would be required to report to the Central Repository “Phase 2e Industry Member Data” by July 11, 2022. To implement the Phased Reporting for Phase 2e, the Exchange proposes to add paragraph (t)(5) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

²¹ As noted above, the Exchange also proposes to amend the dates in the definitions of “Account Effective Date” and “Customer Account Information” to reflect the Phased Reporting. Specifically, the Exchange proposes to amend paragraph (m)(2) of Rule 6.5 to replace the references to November 15, 2018 and 2019 with references to the commencement of Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2)–(5) of Rule 6.810 regarding the definition of “Account Effective Date” with similar changes to the dates set forth therein.

²⁰ The Participants have determined that reporting information regarding the modification or cancellation of a route is necessary to create the full lifecycle of an order. Accordingly, the Participants require the reporting of information related to the modification or cancellation of a route similar to the data required for the routing of an order and modification and cancellation of an order pursuant to Sections 6.3(d)(ii) and (iv) of the CAT NMS Plan.

(i) Scope of Phase 2e Reporting

To implement the Phased Reporting with respect to Phase 2e, the Exchange proposes to add a definition of “Phase 2e Industry Member Data” as paragraph (t)(5) of Rule 4.16. Specifically, the Exchange proposes to define the term “Phase 2e Industry Member Data” as “Industry Member Data required to be reported to the Central Repository commencing in Phase 2e. The full scope of Industry Member Data required by the CAT NMS Plan will be required to be reported to the CAT when Phase 2e has been implemented, subject to any applicable exemptive relief or amendments to the CAT NMS Plan.” LTIDs and Account Effective Date are both required to be reported in Phases 2c and 2d in certain circumstances, as discussed above. The terms “Customer Account Information” and “Customer Identifying Information” are defined in Rule 4.5 of the Compliance Rule.²² The Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2e.

(ii) Timing of Phase 2e Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2e for Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(E) of Rule 4.16, which would state, in relevant part, that “[e]ach Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (E) Phase 2e Industry Member Data by July 11, 2022.”

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement

the Phased Reporting for Phase 2e for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(D) of Rule 4.16, which would state, in relevant part, that “[e]ach Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (E) Small Industry Members to report to the Central Repository Phase 2e Industry Member Data by July 11, 2022.”

F. Industry Member Testing Requirements

Rule 4.13(a) sets forth various compliance dates for the testing and development for connectivity, acceptance and the submission order data. In light of the intent to shift to Phased Reporting in place of the two specified dates for the commencement of reporting for Large and Small Industry Members, the Exchange correspondingly proposes to replace the Industry Member development testing milestones in Rule 6880(a) with the testing milestones set forth in the exemptive relief. Specifically, the Exchange proposes to replace Rule 6880(a) with the following:

(1) Industry Member file submission and data integrity testing for Phases 2a and 2b shall begin in December 2019.

(2) Industry Member testing of the Reporter Portal, including data integrity error correction tools and data submissions, shall begin in February 2020.

(3) The Industry Member test environment shall open with intra-firm linkage validations to Industry Members for both Phases 2a and 2b in April 2020.

(4) The Industry Member test environment shall open to Industry Members with inter-firm linkage validations for both Phases 2a and 2b in July 2020.

(5) The Industry Member test environment shall open to Industry Members with Phase 2c functionality (full representative order linkages) in January 2021.

(6) The Industry Member test environment shall open to Industry Members with Phase 2d functionality (manual options orders, complex options orders, and options allocations) in June 2021.

(7) Participant exchanges that support options market making quoting shall begin accepting Quote Sent Time on quotes from Industry Members no later than April 2020.

(8) The Industry Member test environment (customer and account information) will be open to Industry Members in January 2022.

iv. Granularity of Timestamps

On February 3, 2020, the Participants filed with the Commission a request for exemptive relief from the requirement in Section 6.8(b) of the CAT NMS Plan for each Participant, through its

Compliance Rule, to require that, to the extent that its Industry Members utilize timestamps in increments finer than nanoseconds in their order handling or execution systems, such Industry Members utilize such finer increment when reporting CAT Data to the Central Repository.²³ On April 8, 2020, the Participants received the exemptive relief.²⁴ As a condition to this exemption, the Participants, through their Compliance Rules, will require Industry Members that capture timestamps in increments more granular than nanoseconds to truncate the timestamps, after the nanosecond level for submission to CAT, not round up or down in such circumstances. The timestamp granularity exemption remains in effect for five years, until April 8, 2025. After five years, the exemption would no longer be in effect unless the period the exemption is in effect is extended by the SEC.

Accordingly, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief. Specifically, the Exchange proposes to amend paragraph (a)(2) of Rule 4.10. Rule 4.10(a)(2) states that

Subject to paragraph (b), to the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, such Industry Member shall record and report Industry Member Data to the Central Repository with time stamps in such finer increment.

The Exchange proposes to amend this provision to read as follows to reflect the exemptive relief: Subject to paragraph (b), to the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, such Industry Member shall record and report Industry Member Data to the Central Repository with time stamps in such finer increment up to nanoseconds; provided, that Industry Members that capture timestamps in increments more granular than nanoseconds must truncate the timestamps after the nanosecond level for submission to CAT, rather than rounding such timestamps up or down, until April 8, 2025.

v. Introducing Industry Members

On February 3, 2020, the Participants requested that the Commission exempt

²² The term “Customer Account Information” includes account numbers, and the term “Customer Identifying Information” includes, with respect to individuals, dates of birth and SSNs. See Rule 4.5. The Participants have received exemptive relief from the requirements for the Participants to require their members to provide dates of birth, account numbers and social security numbers for individuals to the CAT. See Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020). See also Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Jan. 29, 2020). Given the relief has been granted, Phase 2e Industry Member Data will not include account numbers, dates of birth and SSNs for individuals.

²³ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Granularity of Timestamps and Relationship Identifiers (Feb. 3, 2020).

²⁴ See Securities Exchange Act Release No. 88608 (April 8, 2020), 85 FR 20743 (April 14, 2020).

broker-dealers that do not qualify as Small Industry Members solely because they satisfy Rule 0–10(i)(2) under the Exchange Act and, as a result, are deemed affiliated with an entity that is not a small business or small organization (“Introducing Industry Member”) from the requirements in the CAT NMS Plan applicable to Industry Members other than Small Industry Members (“Large Industry Members”).²⁵ Instead, such Introducing Industry Members would comply with the requirements in the CAT NMS Plan applicable to Small Industry Members. On April 20, 2020, the SEC granted the Participants exemptive relief with regard to Introducing Industry Members.²⁶

As a result, the Exchange proposes to amend its Compliance Rule to adopt a definition of “Introducing Industry Member” and to revise Rule 4.16 to require Introducing Industry Members to comply with the requirements of the CAT NMS Plan applicable to Small Industry Members. Specifically, the Exchange proposes to define “Introducing Industry Member” in proposed paragraph (v) to Rule 4.5, as “a broker-dealer that does not qualify as a Small Industry Member solely because such broker-dealer satisfies Rule 0–10(i)(2) under the Exchange Act in that it introduces transactions on a fully disclosed basis to clearing firms that are not small businesses or small organizations.” The Exchange also proposes to add a new paragraph (3) to Rule 4.16(c) to state that “Introducing Industry Members must comply with the requirements of the CAT NMS Plan applicable to Small Industry Members.” With these changes, Introducing Industry Members would be required to comply with the requirements in the CAT NMS Plan applicable to Small Industry Members, rather than the requirements in the CAT NMS Plan applicable to Large Industry Members.

vi. CCID/PII

On January 29, 2020, the Participants filed with the Commission a request for exemptive relief from certain requirements related to reporting SSNs, dates of birth and account numbers to the CAT.²⁷ The Commission,

Participants and others indicated security concerns with maintaining such sensitive Customer information in the CAT. On March 17, 2020, the Participants received the exemptive relief, subject to certain conditions.²⁸ Assuming the Participants comply with the conditions set forth in the PII Exemption Order, Industry Members would not be required to report SSNs, dates of birth and account numbers to the CAT NMS Plan.

As described in the request for exemptive relief, the Participants requested exemptive relief to allow for an alternative approach to generating a CAT Customer ID (“CCID”) without requiring Industry Members to report SSNs to the CAT (the “CCID Alternative”). In lieu of retaining such SSNs in the CAT, the Participants would use the CCID Alternative, a strategy developed by the Chief Information Security Officer for the CAT and the Chief Information Security Officers from each of the Participants, in consultation with security experts from member firms of Securities Industry and Financial Markets Association. The CCID Alternative facilitates the ability of the Plan Processor to generate a CCID without requiring the Plan Processor to receive SSNs or store SSNs within the CAT. Under the CCID Alternative, the Plan Processor would generate a unique CCID using a two-phase transformation process that avoids having SSNs reported to or stored in the CAT. In the first transformation phase, a CAT Reporter would transform the SSN to an interim value (the “transformed value”). This transformed value, and not the SSN, would be submitted to a separate system within the CAT (“CCID Subsystem”). The CCID Subsystem would then perform a second transformation to create the globally unique CCID for each Customer that is unknown to, and not shared with, the original CAT Reporter. The CCID would then be sent to the customer and account information system of the CAT, where it would be linked with the other customer and account information. The CCID may then be used by the

Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Jan. 29, 2020).

²⁸ See Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020) (Order Granting Conditional Exemptive Relief, Pursuant to Section 36 and Rule 608(e) of the Securities Exchange Act of 1934, from Section 6.4(d)(ii)(C) and Appendix D Sections 4.1.6, 6.2, 8.1.1, 8.2, 9.1, 9.2, 9.4, 10.1, and 10.3 of the National Market System Plan Governing the Consolidated Audit Trail) (“PII Exemption Order”). The PII Exemption Order lists several conditions that must be met by the Exchange. If the Exchange does not satisfy the conditions, the PII Exemption Order would not apply to the Exchange.

Participants’ regulatory staff and the SEC in queries and analysis of CAT Data. To implement the CCID Alternative, the Participants requested exemptive relief from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan to require, through their Compliance Rules, Industry Members to record and report SSNs to the Central Repository for the original receipt of an order. As set forth in one condition of the PII Exemption Order, Industry Members would be required to transform an SSN to an interim value, and report the transformed value to the CAT.

The Participants also requested exemptive relief to allow for an alternative approach which would exempt the reporting of dates of birth and account numbers²⁹ to the CAT (“Modified PII Approach”), and instead would require Industry Members to report the year of birth and the Firm Designated ID for each trading account associated with the Customers. To implement the Modified PII Approach, the Participants requested exemptive relief from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan to require, through their Compliance Rules, Industry Members to record and report to the Central Repository for the original receipt of an order dates of birth and account numbers for Customers. As conditions to the exemption, Industry Members would be required to report the year of birth of an individual to the Central Repository, and to report the Firm Designated ID to the Central Repository.

To implement the request for exemptive relief and to eliminate the requirement to report SSNs, date of birth and account numbers to the CAT, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief. Rule 4.7(a)(2)(C) states that

[s]ubject to paragraph (3) below, each Industry Member shall record and report to the Central Repository the following, as applicable (“Received Industry Member Data” and collectively with the information referred to in Rule 6830(a)(1) “Industry Member Data”) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan: . . . (C) for original receipt or origination of an order, the Firm Designated ID for the relevant Customer, and in accordance with Rule 6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

²⁹ With respect to this aspect of the requested relief, the PII Exemption Order provided relief with regard to the reporting of all account numbers, not just account numbers for individuals as requested by the Participants.

²⁵ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Small Industry Members (Feb. 3, 2020).

²⁶ See Securities Exchange Act Release No. 88703 (April 20, 2020), 85 FR 23115 (April 24, 2020).

²⁷ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for

Similarly, Rule 4.8 requires the reporting of Customer Account Information and Customer Identifying Information to the Central Repository. Currently, Rule 4.5(m) defines “Customer Identifying Information” to include, with respect to individuals, “date of birth” and “individual tax payer identification number (“ITIN”)/social security number (“SSN”).” Accordingly, the Exchange proposes to replace “date of birth” in the definition of “Customer Identifying Information” in Rule 4.5(m) (now renumbered Rule 4.5(n)) with “year of birth” and to delete “individual tax payer identification number (“ITIN”)/social security number (“SSN”)” from Rule 6810(m) (now renumbered Rule 6810(n)). In addition, currently, Rule 4.5(l) defines “Customer Account Information” to include account numbers. The Exchange proposes to delete “account number” from the definition of “Customer Account Information” in Rule 4.5(l) (now renumbered Rule 6810(m)).

The Exchange also proposes to add a definition of the term “Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”)” to Rule 4.5. Specifically, the Exchange proposes to add paragraph (pp) to Rule 4.5 to define “Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”)” to mean “the interim value created by an Industry Member based on a Customer ITIN/SSN.”

The Exchange proposes to revise Rule 4.7(a)(2)(C) to include the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”). Specifically, the Exchange proposes to revise Rule 6830(a)(2)(C) to state:

[s]ubject to paragraph (3) below, each Industry Member shall record and report to the Central Repository the following, as applicable (“Received Industry Member Data” and collectively with the information referred to in Rule 6830(a)(1) “Industry Member Data”) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan: . . . (C) for original receipt or origination of an order, the Firm Designated ID for the relevant Customer, Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”), and in accordance with Rule 6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

The Exchange also proposes to include the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) in the Customer information reporting required under Rule 4.8. Specifically, the Exchange proposes to

revise Rule 4.8(a) to require each Industry Member to submit to the Central Repository the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”), for each of its Customers with an Active Account prior to such Industry Member’s commencement of reporting to the Central Repository and in accordance with the deadlines set forth in Rule 6880. The Exchange also proposes to revise Rule 4.8(b) to require each Industry Member to submit to the Central Repository any updates, additions or other changes to the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) for each of its Customers with an Active Account on a daily basis. In addition, the Exchange proposes to revise Rule 4.8(c) to require, on a periodic basis as designated by the Plan Processor and approved by the Operating Committee, each Industry Member to submit to the Central Repository a complete set of the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) for each of its Customers with an Active Account. The Exchange also proposes to revise Rule 4.8(d) to require, for each Industry Member for which errors in the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) for each of its Customers with an Active Account submitted to the Central Repository have been identified by the Plan Processor or otherwise, such Industry Member to submit corrected data to the Central Repository by 5:00 p.m. Eastern Time on T+3.

Paragraph (1)(B) of Rule 4.5(m), the definition of “Customer Account Information” states that “in those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution, the Industry Member will” . . . “provide the relationship identifier in lieu of the “account number.” As an account number will no longer be an element in “Customer Account Information,” the relationship identifier used in lieu of the account number will no longer be required as an element of Customer Account Information. Therefore, the Exchange proposes to delete the requirement set forth in Rule 6810(m)(a)(B) regarding relationship identifiers from Rule 4.5(m).

With these changes, Industry Members would not be required to report to the Central Repository dates of birth, SSNs or account numbers pursuant to Rule 4.7(a)(2)(C). However,

Industry Members would be required to report the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) and the year of birth to the Central Repository.³⁰

vii. FINRA Facility Data Linkage

On June 5, 2020, the Participants filed with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to allow for an alternative approach to the reporting of clearing numbers and cancelled trade indicators.³¹ The SEC provided this exemptive relief on June 11, 2020.³² FINRA is required to report to the Central Repository data collected by FINRA’s Trade Reporting Facilities, FINRA’s OTC Reporting Facility or FINRA’s Alternative Display Facility (collectively, “FINRA Facility”) pursuant to applicable SRO rules (“FINRA Facility Data”). Included in this FINRA Facility Data is the clearing number of the clearing broker for a reported trade as well as the cancelled trade indicator. Under this alternative approach, the clearing number and the cancelled trade indicator of the FINRA Facility Data that is reported to the CAT would be linked to the related execution reports reported by Industry Members. To implement this approach in a phased manner, the Participants received exemptive relief from the requirement in Sections 6.4(d)(ii)(A)(2) and (B) of the CAT NMS Plan to require, through their Compliance Rules, that Industry Members record and report to the Central Repository: (1) If the order is executed, in whole or in part, the SRO-Assigned Market Participant Identifier of the clearing broker, if applicable; and (2) if the trade is cancelled, a cancelled trade indicator, subject to certain conditions.

As a condition to this exemption, the Participants would continue to require Industry Members to submit a trade report for a trade, and, if the trade is cancelled, a cancellation, to a FINRA Facility pursuant to applicable SRO rules, and to report the corresponding execution to the Central Repository. In addition, Industry Members would be required to report to the Central

³⁰ The Exchange anticipates that the Compliance Rule may be further amended when further details regarding the CCID Alternative are finalized.

³¹ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to FINRA Facility Data Linkage (June 5, 2020).

³² See Securities Exchange Act Release No. 89051 (June 11, 2020) (**Federal Register** publication pending).

Repository the unique trade identifier reported to a FINRA Facility with the corresponding trade report. Furthermore, if an Industry Member does not submit a cancellation to a FINRA Facility, or is unable to provide a link between the execution reported to the Central Repository and the related FINRA Facility trade report, then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator and cancelled trade timestamp if the trade is cancelled. Similarly, if an Industry Member does not submit the clearing number of the clearing broker to a FINRA Facility for a trade, or is unable to provide a link between the execution reported to the Central Repository and the related FINRA Facility trade report, then the Industry Member would be required to record and report to the Central Repository the clearing number as well as contra party information.

As a result, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief to implement this alternative approach. Specifically, the Exchange proposes to require Industry Members to report to the CAT with an execution report the unique trade identifier reported to a FINRA facility with the corresponding trade report. For example, the unique trade identifier for the OTC Reporting Facility and the Alternative Display Facility would be the Compliance ID, for the FINRA/Nasdaq Trade Reporting Facility, it would be the Branch Sequence Number, and for the FINRA/NYSE Trade Reporting Facility, it would be the FINRA Compliance Number. This unique trade identifier would be used to link the FINRA Facility Data with the execution report in the CAT. Specifically, the Exchange proposes to add new paragraph (a)(2)(E) to Rule 4.7, which states that:

(E) If an Industry Member is required to submit and submits a trade report for a trade, and, if the trade is cancelled, a cancellation, to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, and the Industry Member is required to report the corresponding execution and/or cancellation to the Central Repository:

(1) The Industry Member is required to report to the Central Repository trade identifier reported by the Industry Member to such FINRA facility for the trade when the Industry Member reports the execution of an order pursuant to Rule 4.7(a)(1)(E) or cancellation of an order pursuant to Rule 4.7(a)(1)(D) beginning June 22, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters, and such trade identifier must be unique

beginning October 26, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters.

The Exchange also proposes to relieve Industry Members of the obligation to report to the CAT data related to clearing brokers and trade cancellations pursuant to Rules 4.7(a)(2)(A)(ii) and (B), respectively, as this data will be reported by FINRA to the CAT, except in certain circumstances. Accordingly, the Exchange proposes new paragraphs (a)(2)(E)(ii) and (iii) to Rule 4.7, which would state:

(ii) if the order is executed in whole or in part, and the Industry Member submits the trade report to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, the Industry Member is not required to submit the SRO-Assigned Market Participant Identifier of the clearing broker pursuant to Rule 4.7(a)(2)(A)(ii); provided, however, if the Industry Member does not report the clearing number of the clearing broker to such FINRA facility for a trade, or does not report the unique trade identifier to the Central Repository as required by Rule 4.7(a)(2)(E)(i), then the Industry Member would be required to record and report to the Central Repository the clearing number of the clearing broker as well as information about the contra party to the trade beginning April 26, 2021 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters; and

(iii) if the trade is cancelled and the Industry Member submits the cancellation to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, the Industry Member is not required to submit the cancelled trade indicator pursuant to Rule 4.7(a)(2)(B); provided, however, if the Industry Member does not report a cancellation for a canceled trade to such FINRA facility, or does not report the unique trade identifier as required by 4.7(a)(2)(E)(i), then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator as well as a cancelled trade timestamp beginning June 22, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters.

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. Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) 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) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that this proposal is consistent with the Act because it is consistent with certain exemptions from the CAT NMS Plan, because it facilitates the retirement of certain existing regulatory systems, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan "is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act."³³ To the extent that this proposal implements the Plan, including the exemptive relief, and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule changes are consistent with certain exemptions from the CAT NMS Plan, facilitate the retirement of certain existing regulatory systems, and are designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. The Exchange also notes that the amendments to the Compliance Rules will apply equally to all Industry Members that trade NMS Securities and OTC Equity Securities. In addition, all national securities exchanges and FINRA are proposing these amendments to their Compliance

³³ See Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696, 84697 (November 23, 2016).

Rules. Therefore, this is not a competitive rule filing, and, therefore, it does not impose a 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 foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act³⁴ and subparagraph (f)(6) of Rule 19b-4 thereunder.³⁵

A proposed rule change filed under Rule 19b-4(f)(6)³⁶ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),³⁷ 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 by June 22, 2020. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it implements exemptive relief from the CAT NMS Plan granted by the Commission and facilitates the start of Industry Member reporting on June 22, 2020. In addition, as noted by the Exchange, the proposed rule change is based on a filing recently approved by the Commission.³⁸ Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative as of June 22, 2020.³⁹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeEDGA-2020-018 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CboeEDGA-2020-018. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal

office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeEDGA-2020-018 and should be submitted on or before July 20, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁰

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020-13874 Filed 6-26-20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89132; File No. SR-CboeEDGX-2020-030]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend Certain Rules Within Rules 4.5 Through 4.16, Which Contain the Exchange's Compliance Rule ("Compliance Rule") Regarding the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan" or "Plan")

June 23, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 22, 2020, Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the "Exchange" or "Cboe EDGX") proposes to amend certain Rules within Rules 4.5 through 4.16, which contain the Exchange's compliance rule ("Compliance Rule") regarding the National Market System Plan Governing the Consolidated Audit Trail (the "CAT

³⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

³⁵ 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 the 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.

³⁶ 17 CFR 240.19b-4(f)(6).

³⁷ 17 CFR 240.19b-4(f)(6)(iii).

³⁸ See Securities Exchange Act Release No. 89108 (June 19, 2020).

³⁹ 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).

⁴⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

NMS Plan” or “Plan”) The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange’s website (http://markets.cboe.com/us/options/regulation/rule_filings/edgx/), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend the Consolidated Audit Trail (“CAT”) Compliance Rule in Rules 4.5 through 4.16 to be consistent with certain proposed amendments to and exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems. As described more fully below, the proposed rule change would make the following changes to the Compliance Rule:

- Add additional data elements to the consolidated audit trail (“CAT”) reporting requirements for Industry Members to facilitate the retirement of the Financial Industry Regulatory Authority, Inc.’s (“FINRA”) Order Audit Trail System (“OATS”);

- Add additional data elements related to OTC Equity Securities that FINRA currently receives from alternative trading systems (“ATSs”) that trade OTC Equity Securities for regulatory oversight purposes to the CAT reporting requirements for Industry Members;

- Implement a phased approach for Industry Member reporting to the CAT (“Phased Reporting”);

- To the extent that any Industry Member’s order handling or execution systems utilize time stamps in increments finer than milliseconds,

revise the timestamp granularity requirement to require such Industry Member to record and report Industry Member Data to the Central Repository with time stamps in such finer increment up to nanoseconds;

- Require Introducing Industry Members (as defined below) to comply with the requirements of the CAT NMS Plan applicable to Small Industry Members;

- Revise the CAT reporting requirements so Industry Members would not be required to report to the Central Repository dates of birth, “individual tax payer identification number (“ITIN”)/social security number (“SSN”)” (collectively, referred to as “SSNs”) or account numbers; and

- Revise the CAT reporting requirements regarding cancelled trades and SRO-Assigned Market Participant Identifiers of clearing brokers, if applicable, in connection with order executions, as such information will be available from FINRA’s trade reports submitted to the CAT.

i. CAT–OATS Data Gaps

The Participants have worked to identify gaps between data reported to existing systems and data to be reported to the CAT to “ensure that by the time Industry Members are required to report to the CAT, the CAT will include all data elements necessary to facilitate the rapid retirement of duplicative systems.”³ As a result of this process, the Participants identified several data elements that must be included in the CAT reporting requirements before existing systems can be retired. In particular, the Participants identified certain data elements that are required by OATS, but not currently enumerated in the CAT NMS Plan. Accordingly, the Exchange proposes to amend its Compliance Rule to include these OATS data elements in the CAT. Each of such OATS data elements are discussed below. With the addition of these OATS data elements to the CAT, the CAT will have the data elements necessary to retire OATS.

A. Information Barrier Identification

The FINRA OATS rules require OATS Reporting Members⁴ to record the identification of information barriers for certain order events, including when an

order is received or originated, transmitted to a department within the OATS Reporting Member, and when it is modified. The Participants propose to amend the Compliance Rule to incorporate these requirements into the CAT.

Specifically, FINRA Rule 7440(b)(20) requires a FINRA OATS Reporting Member to record the following when an order is received or originated: “if the member is relying on the exception provided in Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member where the order was received or originated.”⁵ The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(7) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for original receipt or origination of an order, “the unique identification of any appropriate information barriers in place at the department within the Industry Member where the order was received or originated.”

In addition, FINRA Rule 7440(c)(1) states that “[w]hen a Reporting Member transmits an order to a department within the member, the Reporting Member shall record: . . . (H) if the member is relying on the exception provided in Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member to which the order was transmitted.” The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to revise paragraph (a)(1)(B)(6) of Rule 4.7 to require, for the routing of an order, if routed internally at the Industry Member, “the unique identification of any appropriate information barriers in place at the department within the Industry Member to which the order was transmitted.”

FINRA Rule 7440(c)(2)(B) and 7440(c)(4)(B) require an OATS Reporting Member that receives an order transmitted from another member to report the unique identification of any appropriate information barriers in place at the department within the member to which the order was transmitted. The Compliance Rule not require Industry Members to report such

³ Letter from Participants to Brent J. Fields, Secretary, SEC, re: File Number 4–698; Notice of Filing of the National Market System Plan Governing the Consolidated Audit Trail (September 23, 2016) at 21 (“Participants’ Response to Comments”) (available at <https://www.sec.gov/comments/4-698/4698-32.pdf>).

⁴ An OATS “Reporting Member” is defined in FINRA Rule 7410(o).

⁵ FINRA Rule 5320 prohibits trading ahead of customer orders.

information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(C)(7) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for the receipt of an order that has been routed, “the unique identification of any appropriate information barriers in place at the department within the Industry Member which received the order.”

FINRA Rule 7440(d)(1) requires an OATS Reporting Member that modifies or receives a modification to the terms of an order to report the unique identification of any appropriate information barriers in place at the department within the member to which the modification was originated or received. The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(D)(7) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, if the order is modified or cancelled, “the unique identification of any appropriate information barriers in place at the department within the Industry Member which received or originated the modification.”

B. Reporting Requirements for ATSs

Under FINRA Rule 4554, ATSs that receive orders in NMS stocks are required to report certain order information to OATS, which FINRA uses to reconstruct ATS order books and perform order-based surveillance, including layering, spoofing, and mid-point pricing manipulation surveillance.⁶ The Participants believe that Industry Members operating ATSs—whether such ATS trades NMS stocks or OTC Equity Securities—should likewise be required to report this information to the CAT. Because ATSs that trade NMS stocks are already recording this information and reporting it to OATS, the Participants believe that reporting the same information to the CAT should impose little burden on these ATSs. Moreover, including this information in the CAT is also necessary for FINRA to be able to retire the OATS system. The Participants similarly believe that obtaining the same information from ATSs that trade OTC Equity Securities will be important for purposes of reconstructing ATS order books and surveillance. Accordingly, the Exchange proposes to add to the data reporting requirements in the

Compliance Rule the reporting requirements for ATSs in FINRA Rule 4554,⁷ but to expand such requirements so that they are applicable to all ATSs rather than solely to ATSs that trade NMS stocks.

(i) New Definition

The Exchange proposes to add a definition of “ATS” to new paragraph (d) of Rule 4.5 to facilitate the addition to the CAT of the reporting requirements for ATSs set forth in FINRA Rule 4554. The Exchange proposes to define an “ATS” to mean “an alternative trading system, as defined in Rule 300(a)(1) of Regulation ATS under the Exchange Act.”

(ii) ATS Order Type

FINRA Rule 4554(b)(5) requires the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

A unique identifier for each order type offered by the ATS. An ATS must provide FINRA with (i) a list of all of its order types 20 days before such order types become effective and (ii) any changes to its order types 20 days before such changes become effective. An identifier shall not be required for market and limit orders that have no other special handling instructions.

The Compliance Rule does not require Industry Members to report such order type information to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate these requirements into four new provisions to the Compliance Rule: Paragraphs (a)(1)(A)(11)(a), (a)(1)(C)(10)(a), (a)(1)(D)(9)(a) and (a)(2)(D) of Rule 4.7.

Proposed paragraph (a)(1)(A)(11)(a) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository for the original receipt or origination of an order “the ATS’s unique identifier for the order type of the order.” Proposed paragraph (a)(1)(C)(10)(a) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository for the receipt of

an order that has been routed “the ATS’s unique identifier for the order type of the order.” Proposed paragraph (a)(1)(D)(9)(a) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository if the order is modified or cancelled “the ATS’s unique identifier for the order type of the order.”

Furthermore, as with the requirements in FINRA Rule 4554(b)(5), proposed paragraph (a)(2)(D) of Rule 4.7 would state that:

An Industry Member that operates an ATS must provide to the Central Repository: (1) a list of all of its order types twenty (20) days before such order types become effective; and (2) any changes to its order types twenty (20) days before such changes become effective. An identifier shall not be required for market and limit orders that have no other special handling instructions.

(iii) National Best Bid and Offer

FINRA Rules 4554(b)(6) and (7) require the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

(6) The NBBO (or relevant reference price) in effect at the time of order receipt and the timestamp of when the ATS recorded the effective NBBO (or relevant reference price); and

(7) Identification of the market data feed used by the ATS to record the NBBO (or other reference price) for purposes of subparagraph (6). If for any reason, the ATS uses an alternative feed than what was reported on its ATS data submission, the ATS must notify FINRA of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Similarly, FINRA Rule 4554(c) requires the following information to be recorded and reported to FINRA by ATSs when reporting the execution of an order to OATS:

(1) The NBBO (or relevant reference price) in effect at the time of order execution;

(2) The timestamp of when the ATS recorded the effective NBBO (or relevant reference price); and

(3) Identification of the market data feed used by the ATS to record the NBBO (or other reference price) for purposes of subparagraph (1). If for any reason, the ATS uses an alternative feed than what was reported on its ATS data submission, the ATS must notify FINRA of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

The Compliance Rule does not require Industry Members to report such NBBO information to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate

⁶ See FINRA Regulatory Notice 16–28 (August 2016).

⁷ FINRA Rule 4554 was approved by the SEC on May 10, 2016, while the CAT NMS Plan was pending with the Commission. See Securities Exchange Act Release No. 77798 (May 10, 2016), 81 FR 30395 (May 16, 2016) (Order Approving SR–FINRA–2016–010). As noted in the Participants’ Response to Comments, throughout the process of developing the Plan, the Participants worked to keep the gap analyses for OATS, electronic blue sheets, and the CAT up-to-date, which included adding data fields related to the tick size pilot and ATS order book amendments to the OATS rules. See Participants’ Response to Comments at 21. However, due to the timing of the expiration of the tick size pilot, the Participants decided not to include those data elements into the CAT NMS Plan.

these requirements into four new provisions to the Compliance Rule: (a)(1)(A)(11)(b)–(c), (a)(1)(C)(10)(b)–(c), (a)(1)(D)(9)(b)–(c) and (a)(1)(E)(8)(a)–(b) of Rule 4.7.

Specifically, proposed paragraph (a)(1)(A)(11)(b)–(c) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository the following information when reporting the original receipt or origination of order:

(2) the National Best Bid and National Best Offer (or relevant reference price) at the time of order receipt or origination, and the date and time at which the ATS recorded such National Best Bid and National Best Offer (or relevant reference price);

(3) the identification of the market data feed used by the ATS to record the National Best Bid and National Best Offer (or relevant reference price) for purposes of subparagraph (11)(b). If for any reason the ATS uses an alternative market data feed than what was reported on its ATS data submission, the ATS must provide notice to the Central Repository of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Similarly, proposed paragraphs (a)(1)(C)(10)(b)–(c), (a)(1)(D)(9)(b)–(c) and (a)(1)(E)(8)(a)–(b) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository the same information when reporting receipt of an order that has been routed, when reporting if the order is modified or cancelled, and when an order has been executed, respectively.

(iv) Sequence Numbers

FINRA Rule 4554(d) states that “[f]or all OATS-reportable event types, all ATSs must record and report to FINRA the sequence number assigned to the order event by the ATS’s matching engine.” The Compliance Rule does not require Industry Members to report ATS sequence numbers to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate this requirement regarding ATS sequence numbers into each of the Reportable Events for the CAT. Specifically, the Exchange proposes to add proposed paragraph (a)(1)(A)(11)(d) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository “the sequence number assigned to the receipt or origination of the order by the ATS’s matching engine.” The Exchange proposes to add proposed paragraph (a)(1)(B)(8) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository

“the sequence number assigned to the routing of the order by the ATS’s matching engine.” The Exchange also proposes to add proposed paragraph (a)(1)(C)(10)(d) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository “the sequence number assigned to the receipt of the order by the ATS’s matching engine.” In addition, the Exchange proposes to add proposed paragraph (a)(1)(D)(9)(d) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository “the sequence number assigned to the modification or cancellation of the order by the ATS’s matching engine.” Finally, the Exchange proposes to add proposed paragraph (a)(1)(E)(8)(c) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository “the sequence number assigned to the execution of the order by the ATS’s matching engine.”

(v) Modification or Cancellation of Orders by ATSS

FINRA Rule 4554(f) states that “[f]or an ATS that displays subscriber orders, each time the ATS’s matching engine re-prices a displayed order or changes the display quantity of a displayed order, the ATS must report to OATS the time of such modification,” and “the applicable new display price or size.” The Exchange proposes adding a comparable requirement into new paragraph (a)(1)(D)(9)(e) to Rule 4.7. Specifically, proposed new paragraph (a)(1)(D)(9)(e) of Rule 4.7 would require an Industry Member that operates an ATS to report to the Central Repository, if the order is modified or cancelled, “each time the ATS’s matching engine re-prices an order or changes the quantity of an order,” the ATS must report to the Central Repository “the time of such modification, and the applicable new price or size.” Proposed paragraph (a)(1)(D)(9)(e) of Rule 4.7 would apply to all ATSS, not just ATSS that display orders.

(vi) Display of Subscriber Orders

FINRA Rule 4554(b)(1) requires the following information to be recorded and reported to FINRA by ATSS when reporting receipt of an order to OATS:

Whether the ATS displays subscriber orders outside the ATS (other than to alternative trading system employees). If an ATS does display subscriber orders outside the ATS (other than to alternative trading system employees), indicate whether the order is displayed to subscribers only or through publicly disseminated quotation data);

The Compliance Rule does not require Industry Members to report to the CAT such information about the displaying of subscriber orders. The Exchange proposes to add comparable requirements into proposed paragraphs (a)(1)(A)(11)(e) and (a)(1)(C)(10)(e) of Rule 4.7. Specifically, proposed paragraph (a)(1)(A)(11)(e) would require an Industry Member that operates an ATS to report to the Central Repository, for the original receipt or origination of an order,

whether the ATS displays subscriber orders outside the ATS (other than to alternative trading system employees). If an ATS does display subscriber orders outside the ATS (other than to alternative trading system employees), indicate whether the order is displayed to subscribers only or through publicly disseminated quotation data.

Similarly, proposed paragraph (a)(1)(C)(10)(e) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository the same information when reporting receipt of an order that has been routed.

C. Customer Instruction Flag

FINRA Rule 7440(b)(14) requires a FINRA OATS Reporting Member to record the following when an order is received or originated: “any request by a customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.” The Compliance Rule does not require Industry Members to report to the CAT such a customer instruction flag. To address this OATS–CAT data gap, the Exchange proposes to add paragraph (a)(1)(A)(8) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for original receipt or origination of an order, “any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.” The Exchange also proposes to add paragraph (a)(1)(C)(9) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for the receipt of an order that has been routed, “any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.”

FINRA Rule 7440(d)(1) requires an OATS Reporting Member that modifies or receives a modification of an order to report the customer instruction flag. The Compliance Rule does not require Industry Members to report such a customer instruction flag. To address this OATS–CAT data gap, the Exchange proposes to add paragraph (a)(1)(D)(8) to

Rule 4.7 which would require Industry Members to record and report to the Central Repository, if the order is modified or cancelled, “any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.”

D. Department Type

FINRA Rules 7440(b)(4) and (5) require an OATS Reporting Member that receives or originates an order to record the following information: “the identification of any department or the identification number of any terminal where an order is received directly from a customer” and “where the order is originated by a Reporting Member, the identification of the department of the member that originates the order.” The Compliance Rule does not require Industry Members to report to the CAT information regarding the department or terminal where the order is received or originated. To address this OATS–CAT data gap, the Exchange proposes to add paragraph (a)(1)(A)(9) to Rule 4.7, which would require Industry Members to record and report to the Central Repository upon the original receipt or origination of an order “the nature of the department or desk that originated the order, or received the order from a Customer.”

Similarly, per FINRA Rules 7440(c)(2)(B) and (4)(B), when an OATS Reporting Member receives an order that has been transmitted by another Member, the receiving OATS Reporting Member is required to record the information required in 7440(b)(4) and (5) described above as applicable. The Compliance Rule does not require Industry Members to report to the CAT information regarding the department that received an order. To address this OATS–CAT data gap, the Exchange propose to add paragraph (a)(1)(C)(8) to Rule 4.7 which would require Industry Members to record and report to the Central Repository upon the receipt of an order that has been routed “the nature of the department or desk that received the order.”

E. Account Holder Type

FINRA Rule 7440(b)(18) requires an OATS Reporting Member that receives or originates an order to record the following information: “the type of account, *i.e.*, retail, wholesale, employee, proprietary, or any other type of account designated by FINRA, for which the order is submitted.” The Compliance Rule does not require Industry Members to report to the CAT information regarding the type of account holder for which the order is

submitted. To address this OATS–CAT data gap, the Exchange proposes to add paragraph (a)(1)(A)(10) to Rule 4.7, which would require Industry Members to record and report to the Central Repository upon the original receipt or origination of an order “the type of account holder for which the order is submitted.”

ii. OTC Equity Securities

The Participants have identified several data elements related to OTC Equity Securities that FINRA currently receives from ATSS that trade OTC Equity Securities for regulatory oversight purposes, but are not currently included in CAT Data. In particular, the Participants identified three data elements that need to be added to the CAT: (1) Bids and offers for OTC Equity Securities; (2) a flag indicating whether a quote in OTC Equity Securities is solicited or unsolicited; and (3) unpriced bids and offers in OTC Equity Securities. The Participants believe that such data will continue to be important for regulators to oversee the OTC Equity Securities market when using the CAT. Moreover, the Participants do not believe that the proposed requirement would burden ATSS because they currently report this information to FINRA and thus the reporting requirement would merely shift from FINRA to the CAT. Accordingly, as discussed below, the Exchange proposes to amend its Compliance Rule to include these data elements.

A. Bids and Offers for OTC Equity Securities

In performing its current regulatory oversight, FINRA receives a data feed of the best bids and offers in OTC Equity Securities from ATSS that trade OTC Equity Securities. These best bid and offer data feeds for OTC Equity Securities are similar to the best bid and offer SIP Data required to be collected by the Central Repository with regard to NMS Securities.⁸ Accordingly, the Exchange proposes to add paragraph (f)(1) to Rule 4.7 to require the reporting of the best bid and offer data feeds for OTC Equity Securities to the CAT. Specifically, proposed paragraph (f)(1) of Rule 4.7 would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository “the best bid and best offer for each OTC Equity Security traded on such ATS.”

B. Unsolicited Bid or Offer Flag

FINRA also receives from ATSS that trade OTC Equity Securities an

indication whether each bid or offer in OTC Equity Securities on such ATS was solicited or unsolicited. Therefore, the Exchange proposes to add paragraph (f)(2) to Rule 4.7 to require the reporting to the CAT of an indication as to whether a bid or offer was solicited or unsolicited. Specifically, proposed paragraph (f)(2) of Rule 4.7 would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository “an indication of whether each bid and offer for OTC Equity Securities was solicited or unsolicited.”

C. Unpriced Bids and Offers

FINRA receives from ATSS that trade OTC Equity Securities certain unpriced bids and offers for each OTC Equity Security traded on the ATS. Therefore, the Exchange proposes to add paragraph (f)(3) to Rule 4.7, which would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository “the unpriced bids and offers for each OTC Equity Security traded on such ATS.”

iii. Revised Industry Member Reporting Timeline

On February 19, 2020, the Participants filed with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to allow for the implementation of phased reporting to the CAT by Industry Members (“Phased Reporting”).⁹ Specifically, in their exemptive request, the Participants requested that the SEC exempt each Participant from the requirement in Section 6.7(a)(v) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require its Industry Members other than Small Industry Members (“Large Industry Members”) to report to the Central Repository Industry Member Data within two years of the Effective Date (that is, by November 15, 2018). In addition, the Participants requested that the SEC exempt each Participant from the requirement in Section 6.7(a)(vi) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require its Small Industry Members¹⁰ to report to the Central Repository Industry Member Data within three years of the Effective Date (that is, by November 15, 2019). Correspondingly, the Participants

⁹ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Industry Member Reporting Dates (Feb. 19, 2020).

¹⁰ See Section 1.1 of the CAT NMS Plan.

⁸ Section 6.5(a)(ii) of the CAT NMS Plan.

requested that the SEC provide an exemption from the requirement in Section 6.4 of the CAT NMS Plan that “[t]he requirements for Industry Members under this Section 6.4 shall become effective on the second anniversary of the Effective Date in the case of Industry Members other than Small Industry Members, or the third anniversary of the Effective Date in the case of Small Industry Members.” On April 20, 2020, the SEC granted the Participants exemptive relief to implement Phased Reporting, subject to certain timeline changes and conditions.¹¹

As a condition to the exemption, each Participant would implement Phased Reporting through its Compliance Rule by requiring:

(1) its Large Industry Members and its Small Industry Members that are required to record or report information to OATS pursuant to applicable SRO rules (“Small Industry OATS Reporters”) to commence reporting to the Central Repository Phase 2a Industry Member Data by June 22, 2020, and its Small Industry Non-OATS Reporters to commence reporting to the Central Repository Phase 2a Industry Member Data by December 13, 2021;

(2) its Large Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data by July 20, 2020, and its Small Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data by December 13, 2021;

(3) its Large Industry Members to commence reporting to the Central Repository Phase 2c Industry Member Data by April 26, 2021, and its Small Industry Members to commence reporting to the Central Repository Phase 2c Industry Member Data by December 13, 2021;

(4) its Large Industry Members and Small Industry Members to commence reporting to the Central Repository Phase 2d Industry Member Data by December 13, 2021; and

(5) its Large Industry Members and Small Industry Members to commence reporting to the Central Repository Phase 2e Industry Member Data by July 11, 2022.

The full scope of CAT Data required under the CAT NMS Plan will be required to be reported when all five phases of the Phased Reporting have

been implemented, subject to any applicable exemptive relief or amendments related to the CAT NMS Plan.

As a further condition to the exemption, each Participant proposes to implement the testing timelines described in Section F below through its Compliance Rule by requiring the following:

(1) Industry Member file submission and data integrity testing for Phases 2a and 2b begins in December 2019.

(2) Industry Member testing of the Reporter Portal, including data integrity error correction tools and data submissions, begins in February 2020.

(3) The Industry Member test environment will be open with intra-firm linkage validations to Industry Members for both Phases 2a and 2b in April 2020.

(4) The Industry Member test environment will be open to Industry Members with inter-firm linkage validations for both Phases 2a and 2b in July 2020.

(5) The Industry Member test environment will be open to Industry Members with Phase 2c functionality (full representative order linkages) in January 2021.

(6) The Industry Member test environment will be open to Industry Members with Phase 2d functionality (manual options orders, complex options orders, and options allocations) in June 2021.

(7) Participant exchanges that support options market making quoting will begin accepting Quote Sent Time on quotes from Industry Members no later than April 2020.

(8) The Industry Member test environment (customer and account information) will be open to Industry Members in January 2022.

As a result, the Exchange proposes to amend its Compliance Rule to be consistent with the exemptive relief to implement Phased Reporting as described below.

A. Phase 2a

In the first phase of Phased Reporting, referred to as Phase 2a, Large Industry Members and Small Industry OATS Reporters would be required to report to the Central Repository “Phase 2a Industry Member Data” by June 22, 2020.¹² To implement the Phased Reporting for Phase 2a, the Exchange proposes to add paragraph (t)(1) of Rule 4.5 (previously paragraph (s)) and amend paragraphs (c)(1) and (2) of Rule 4.16.

¹² Small Industry Members that are not required to record and report information to FINRA’s OATS pursuant to applicable SRO rules (“Small Industry Non-OATS Reporters”) would be required to report to the Central Repository “Phase 2a Industry Member Data” by December 13, 2021, which is approximately seventeen months after Large Industry Members and Small Industry OATS Reporters begin reporting.

(i) Scope of Reporting in Phase 2a

To implement the Phased Reporting with respect to Phase 2a, the Exchange proposes to add a definition of “Phase 2a Industry Member Data” as paragraph (t)(1) of Rule 4.5. Specifically, the Exchange proposes to define the term “Phase 2a Industry Member Data” as “Industry Member Data required to be reported to the Central Repository commencing in Phase 2a.” Phase 2a Industry Member Data would include Industry Member Data solely related to Eligible Securities that are equities. While the following summarizes categories of Industry Member Data required for Phase 2a, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2a.¹³

Phase 2a Industry Member Data would include all events and scenarios covered by OATS. FINRA Rule 7440 describes the OATS requirements for recording information, which includes information related to the receipt or origination of orders, order transmittal, and order modifications, cancellations and executions. Large Industry Members and Small Industry OATS Reporters would be required to submit data to the CAT for these same events and scenarios during Phase 2a. The inclusion of all OATS events and scenarios in the CAT is intended to facilitate the retirement of OATS.

Phase 2a Industry Member Data also would include Reportable Events for:

- Proprietary orders, including market maker orders, for Eligible Securities that are equities;
- electronic quotes in listed equity Eligible Securities (*i.e.*, NMS stocks) sent to a national securities exchange or FINRA’s Alternative Display Facility (“ADF”);
- electronic quotes in unlisted Eligible Securities (*i.e.*, OTC Equity Securities) received by an Industry Member operating an interdealer quotation system (“IDQS”); and
- electronic quotes in unlisted Eligible Securities sent to an IDQS or other quotation system not operated by a Participant or Industry Member.

Phase 2a Industry Member Data would include Firm Designated IDs. During Phase 2a, Industry Members would be required to report Firm Designated IDs to the CAT, as required by paragraphs (a)(1)(A)(1), and (a)(2)(C) of Rule 4.7. Paragraph (a)(1)(A)(1) of Rule 4.7 requires Industry Members to submit the Firm Designated ID for the

¹³ The items required to be reported commencing in Phase 2a do not include the items required to be reported in Phase 2c or Phase 2d, as discussed below.

¹¹ See Securities Exchange Act Release No. 88702 (April 20, 2020), 85 FR 23075 (April 24, 2020). As discussed in the SEC’s exemptive order, the Commission granted the Participants conditional exemptive relief from the CAT NMS Plan so that the Compliance Rules may require Phase 2a reporting to commence on June 22, 2020, rather than the April 20, 2020 date set forth in the exemptive request, and Phase 2b reporting to commence on July 20, 2020, rather than the May 18, 2020 date set forth in the exemptive request. As a condition to the exemptive relief, Industry Members who elect to report to the CAT prior to such dates will be permitted to report to the CAT as early as April 20, 2020 for Phase 2a reporting and as early as May 18, 2020 for Phase 2b reporting.

original receipt or origination of an order. Paragraph (a)(2)(C) of Rule 4.7 requires Industry Members to record and report to the Central Repository, for original receipt and origination of an order, the Firm Designated ID if the order is executed, in whole or in part.

In Phase 2a, Industry Members would be required to report all street side representative orders, including both agency and proprietary orders and mark such orders as representative orders, except in certain limited exceptions as described in the Industry Member Technical Specifications. A representative order is an order originated in a firm owned or controlled account, including principal, agency average price and omnibus accounts, by an Industry Member for the purpose of working one or more customer or client orders.

In Phase 2a, Industry Members would be required to report the link between the street side representative order and the order being represented when: (1) The representative order was originated specifically to represent a single order received either from a customer or another broker-dealer; and (2) there is (a) an existing direct electronic link in the Industry Member's system between the order being represented and the representative order and (b) any resulting executions are immediately and automatically applied to the represented order in the Industry Member's system.

Phase 2a Industry Member Data also would include the manual and Electronic Capture Time for Manual Order Events. Specifically, for each Reportable Event in Rule 4.7, Industry Members would be required to provide a timestamp pursuant to Rule 4.10. Rule 4.10(b)(1) states that

Each Industry Member may record and report: Manual Order Events to the Central Repository in increments up to and including one second, provided that each Industry Member shall record and report the time when a Manual Order Event has been captured electronically in an order handling and execution system of such Industry Member ("Electronic Capture Time") in milliseconds.

Accordingly, for Phase 2a, Industry Members would be required to provide both the manual and Electronic Capture Time for Manual Order Events.¹⁴

Industry Members would be required to report special handling instructions

for the original receipt or origination of an order during Phase 2a. In addition, during Phase 2a, Industry Members will be required to report, when routing an order, whether the order was routed as an intermarket sweep order ("ISO"). Industry Members would be required to report special handling instructions on routes other than ISOs in Phase 2c, rather than Phase 2a.

In Phase 2a, Industry Members would not be required to report modifications of a previously routed order in certain limited instances. Specifically, if a trader or trading software modifies a previously routed order, the routing firm is not required to report the modification of an order route if the destination to which the order was routed is a CAT Reporter that is required to report the corresponding order activity. If, however, the order was modified by a Customer or other non-CAT Reporter, and subsequently the routing Industry Member sends a modification to the destination to which the order was originally routed, then the routing Industry Member must report the modification of the order route.¹⁵ In addition, in Phase 2a, Industry Members would not be required to report a cancellation of an order received from a Customer after the order has been executed.

(ii) Timing of Phase 2a Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2a for Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(A) of Rule 4.16, which would state, in relevant part, that "Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: (A) Phase 2a Industry Member Data by June 22, 2020."

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2a for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 4.16 with new paragraphs (c)(2)(A) and (B) of Rule 4.16. Proposed paragraph (c)(2)(A) of Rule 4.16 would state that

Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: (A) Small Industry Members that are required to record or report information to FINRA's Order Audit Trail System pursuant to applicable SRO rules ("Small Industry OATS Reporter") to report to the Central Repository Phase 2a Industry Member Data by June 22, 2020.

Proposed paragraph (c)(2)(B) of Rule 4.16 would state that "Small Industry Members that are not required to record or report information to FINRA's Order Audit Trail System pursuant to applicable SRO rules ("Small Industry Non-OATS Reporter") to report to the Central Repository Phase 2a Industry Member Data by December 13, 2021."

B. Phase 2b

In the second phase of the Phased Reporting, referred to as Phase 2b, Large Industry Members would be required to report to the Central Repository "Phase 2b Industry Member Data" by July 20, 2020. Small Industry Members would be required to report to the Central Repository "Phase 2b Industry Member Data" by December 13, 2021, which is approximately seventeen months after Large Industry Members begin reporting such data to the Central Repository. To implement the Phased Reporting for Phase 2b, the Exchange proposes to add paragraph (t)(2) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2b Reporting

To implement the Phased Reporting with respect to Phase 2b, the Exchange proposes to add a definition of "Phase 2b Industry Member Data" as paragraph (t)(2) to Rule 4.5. Specifically, the Exchange proposes to define the term "Phase 2b Industry Member Data" as "Industry Member Data required to be reported to the Central Repository commencing in Phase 2b." Phase 2b Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2b. While the following summarizes the categories of Industry Member Data required for Phase 2b, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2b.

Phase 2b Industry Member Data would include Industry Member Data related to Eligible Securities that are options and related to simple electronic option orders, excluding electronic paired option orders.¹⁶ A simple electronic option order is an order to buy or sell a single option that is not

¹⁴ Industry Members would be required to provide an Electronic Capture Time following the manual capture time only for new orders that are Manual Order Events and, in certain instances, routes that are Manual Order Events. The Electronic Capture Time would not be required for other Manual Order Events.

¹⁵ This approach is comparable to the approach set forth in OATS Compliance FAQ 35.

¹⁶ The items required to be reported in Phase 2b do not include the items required to be reported in Phase 2d, as discussed below in Section A.4.

related to or dependent on any other transaction for pricing and timing of execution that is either received or routed electronically by an Industry Member. Electronic receipt of an order is defined as the initial receipt of an order by an Industry Member in electronic form in standard format directly into an order handling or execution system. Electronic routing of an order is the routing of an order via electronic medium in standard format from one Industry Member's order handling or execution system to an exchange or another Industry Member. An electronic paired option order is an electronic option order that contains both the buy and sell side that is routed to another Industry Member or exchange for crossing and/or price improvement as a single transaction on an exchange. Responses to auctions of simple orders and paired simple orders are also reportable in Phase 2b.

Furthermore, combined orders in options would be treated in Phase 2b in the same way as equity representative orders are treated in Phase 2a. A combined order would mean, as permitted by Exchange rules, a single, simple order in Listed Options created by combining individual, simple orders in Listed Options from a customer with the same exchange origin code before routing to an exchange. During Phase 2b, the single combined order sent to an exchange must be reported and marked as a combined order, but the linkage to the underlying orders is not required to be reported until Phase 2d.

(ii) Timing of Phase 2b Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2b for Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(B) of Rule 4.16, which would state, in relevant part, that "Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (B) Phase 2b Industry Member Data by July 20, 2020."

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2b for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would

state, in relevant part, that "Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Small Industry Members to report to the Central Repository Phase 2b Industry Member Data . . . by December 13, 2021."

C. Phase 2c

In the third phase of the Phased Reporting, referred to as Phase 2c, Large Industry Members would be required to report to the Central Repository "Phase 2c Industry Member Data" by April 26, 2021. Small Industry Members would be required to report to the Central Repository "Phase 2c Industry Member Data" by December 13, 2021, which is approximately seven months after Large Industry Members begin reporting such data to the Central Repository. To implement the Phased Reporting for Phase 2c, the Exchange proposes to add paragraph (t)(3) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2c Reporting

To implement the Phased Reporting with respect to Phase 2c, the Exchange proposes to add a definition of "Phase 2c Industry Member Data" as paragraph (t)(3) to Rule 4.5. Specifically, the Exchange proposes to define the term "Phase 2c Industry Member Data" as "Industry Member Data required to be reported to the Central Repository commencing in Phase 2c." Phase 2c Industry Member Data" would be Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data, Phase 2d Industry Member Data or Phase 2e Industry Member Data. Phase 2c Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2c. While the following summarizes the categories of Industry Member Data required for Phase 2c, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2c.

Phase 2c Industry Member Data would include Industry Member Data that is related to Eligible Securities that are equities and that is related to: (1) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (2) quotes in unlisted Eligible Securities sent to an IDQS operated by a CAT Reporter (reportable by the Industry Member sending the quotes) (except for quotes reportable in Phase 2d, as discussed below); (3) electronic quotes in listed equity Eligible Securities (*i.e.*,

NMS stocks) that are not sent to a national securities exchange or FINRA's Alternative Display Facility; (4) reporting changes to client instructions regarding modifications to algorithms; (5) marking as a representative order any order originated to work a customer order in price guarantee scenarios, such as a guaranteed VWAP; (6) flagging rejected external routes to indicate a route was not accepted by the receiving destination; (7) linkage of duplicate electronic messages related to a Manual Order Event between the electronic event and the original manual route; (8) special handling instructions on order route reports (other than the ISO, which is required to be reported in Phase 2a); (9) quote identifier on trade events; (10) reporting of large trader identifiers¹⁷ ("LTID") (if applicable) for accounts with Reportable Events that are reportable to CAT as of and including Phase 2c; (11) reporting of date account opened or Account Effective Date¹⁸ (as applicable) for accounts and flag indicating the Firm Designated ID type as account or relationship; (12) order effective time for orders that are received by an Industry Member and do not become effective until a later time; (13) the modification or cancellation of an internal route of an order; and (14) linkages to the customer order(s) being represented for all representative order scenarios, including agency average price trades, net trades, aggregated orders, and disconnected Order Management System ("OMS")—Execution Management System ("EMS") scenarios, as required in the Industry Member Technical Specifications.¹⁹

Phase 2c Industry Member Data also includes electronic quotes that are provided by or received in a CAT Reporter's order/quote handling or execution systems in Eligible Securities

¹⁷ See definition of "Customer Account Information" in Section 1.1 of the CAT NMS Plan. See also Rule 13h-1 under the Exchange Act.

¹⁸ See definition of "Customer Account Information" and "Account Effective Date" in Section 1.1 of the CAT NMS Plan. Note that the Exchange also proposes to amend the dates in the definitions of "Account Effective Date" and "Customer Account Information" to reflect the Phased Reporting. Specifically, the Exchange proposes to amend paragraph (m)(2) of Rule 4.5 to replace the references to November 15, 2018 and 2019 with references to the commencement of Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2)–(5) of Rule 6810 regarding the definition of "Account Effective Date" with similar changes to the dates set forth therein.

¹⁹ In Phase 2c, for any scenarios that involve orders originated in different systems that are not directly linked, such as a customer order originated in an OMS and represented by a principal order originated in an EMS that is not linked to the OMS, marking and linkages must be reported as required in the Industry Member Technical Specifications.

that are equities and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: (1) An equity bid or offer is displayed publicly or has been communicated (a) for listed securities to the Alternative Display Facility (ADF) operated by FINRA; or (b) for unlisted equity securities to an “inter-dealer quotation system” as defined in FINRA Rule 6420(c); or (2) an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing; *i.e.*, no further manual or electronic action is required by the responder providing the quote in order to execute or cause a trade to be executed). With respect to OTC Equity Securities, OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter (other than such an IDQS that does not match and execute orders) are reportable by the Industry Member sending them in Phase 2c. Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.*, FIX) that meets this quote definition (*i.e.*, an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing) would be reportable in Phase 2c.

(ii) Timing of Phase 2c Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2c for Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(C) of Rule 4.16, which would state, in relevant part, that “Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Phase 2c Industry Member Data by April 26, 2021.”

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2c for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that “Each Industry Member that is a Small Industry Member shall record and

report the Industry Member Data to the Central Repository, as follows: . . . (C) Small Industry Members to report to the Central Repository . . . Phase 2c Industry Member Data . . . by December 13, 2021.”

D. Phase 2d

In the fourth phase of the Phased Reporting, referred to as Phase 2d, Large Industry Members and Small Industry Members would be required to report to the Central Repository “Phase 2d Industry Member Data” by December 13, 2021. To implement the Phased Reporting for Phase 2d, the Exchange proposes to add paragraph (t)(4) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2d Reporting

To implement the Phased Reporting with respect to Phase 2d, the Exchange proposes to add a definition of “Phase 2d Industry Member Data” as paragraph (t)(4) to Rule 6.5. Specifically, the Exchange proposes to define the term “Phase 2d Industry Member Data” as “Industry Member Data required to be reported to the Central Repository commencing in Phase 2d.”²⁰

“Phase 2d Industry Member Data” is Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data, Industry Member Data that is related to Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2c Industry Member Data, and Industry Member Data other than Phase 2e Industry Member Data. Phase 2d Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2d. While the following summarizes the categories of Industry Member Data required for Phase 2d, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2d.

Phase 2d Industry Member Data includes with respect to the Eligible Securities that are options: (1) Simple manual orders; (2) electronic and manual paired orders; (3) all complex orders with linkages to all CAT-reportable legs; (4) LTIDs (if applicable) for accounts with Reportable Events for Phase 2d; (5) date account opened or Account Effective Date (as applicable) for accounts with an LTID and flag

indicating the Firm Designated ID type as account or relationship for such accounts;²¹ (6) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (7) the modification or cancellation of an internal route of an order; and (8) linkage between a combined order and the original customer orders.

Phase 2d Industry Member Data also would include electronic quotes that are provided by or received in a CAT Reporter’s order/quote handling or execution systems in Eligible Securities that are options and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: a listed option bid or offer which is accessible electronically by customers or other market participants and is immediately actionable (*i.e.*, no further action is required by the responder providing the quote in order to execute or cause a trade to be executed). Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.*, FIX) that meets this definition would be reportable in Phase 2d for options.

Phase 2d Industry Member Data also would include with respect to Eligible Securities that are options or equities (1) receipt time of cancellation and modification instructions through Order Cancel Request and Order Modification Request events; (2) modifications of previously routed orders in certain instances; and (3) OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter that does not match and execute orders. In addition, subject to any exemptive or other relief, Phase 2d Industry Member Data will include verbal or manual quotes on an exchange floor or in the over-the-counter market, where verbal quotes and manual quotes are defined as bids or offers in Eligible Securities provided verbally or that are provided or received other than via a CAT Reporter’s order handling and execution system (*e.g.*,

²¹ As noted above, the Exchange also proposes to amend the dates in the definitions of “Account Effective Date” and “Customer Account Information” to reflect the Phased Reporting. Specifically, the Exchange proposes to amend paragraph (m)(2) of Rule 6.5 to replace the references to November 15, 2018 and 2019 with references to the commencement of Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2)–(5) of Rule 6.810 regarding the definition of “Account Effective Date” with similar changes to the dates set forth therein.

²⁰ The Participants have determined that reporting information regarding the modification or cancellation of a route is necessary to create the full lifecycle of an order. Accordingly, the Participants require the reporting of information related to the modification or cancellation of a route similar to the data required for the routing of an order and modification and cancellation of an order pursuant to Sections 6.3(d)(ii) and (iv) of the CAT NMS Plan.

quotations provided via email or instant messaging).

(ii) Timing of Phase 2d Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2d for Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(D) of Rule 4.16, which would state, in relevant part, that “[e]ach Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (D) Phase 2d Industry Member Data by December 13, 2021.”

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2d for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that “Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Small Industry Members to report to the Central Repository . . . Phase 2d Industry Member Data by December 13, 2021.”

E. Phase 2e

In the fifth phase of Phased Reporting, referred to as Phase 2e, both Large Industry Members and Small Industry Members would be required to report to the Central Repository “Phase 2e Industry Member Data” by July 11, 2022. To implement the Phased Reporting for Phase 2e, the Exchange proposes to add paragraph (t)(5) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2e Reporting

To implement the Phased Reporting with respect to Phase 2e, the Exchange proposes to add a definition of “Phase 2e Industry Member Data” as paragraph (t)(5) of Rule 4.16. Specifically, the Exchange proposes to define the term “Phase 2e Industry Member Data” as “Industry Member Data required to be reported to the Central Repository commencing in Phase 2e. The full scope of Industry Member Data required by the CAT NMS Plan will be required to be reported to the CAT when Phase 2e has been implemented, subject to any

applicable exemptive relief or amendments to the CAT NMS Plan.” LTIDs and Account Effective Date are both required to be reported in Phases 2c and 2d in certain circumstances, as discussed above. The terms “Customer Account Information” and “Customer Identifying Information” are defined in Rule 4.5 of the Compliance Rule.²² The Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2e.

(ii) Timing of Phase 2e Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2e for Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(E) of Rule 4.16, which would state, in relevant part, that “[e]ach Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (E) Phase 2e Industry Member Data by July 11, 2022.”

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2e for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(D) of Rule 4.16, which would state, in relevant part, that “[e]ach Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (E) Small Industry Members to report to the Central Repository Phase 2e Industry Member Data by July 11, 2022.”

²² The term “Customer Account Information” includes account numbers, and the term “Customer Identifying Information” includes, with respect to individuals, dates of birth and SSNs. See Rule 4.5. The Participants have received exemptive relief from the requirements for the Participants to require their members to provide dates of birth, account numbers and social security numbers for individuals to the CAT. See Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020). See also Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Jan. 29, 2020). Given the relief has been granted, Phase 2e Industry Member Data will not include account numbers, dates of birth and SSNs for individuals.

F. Industry Member Testing Requirements

Rule 4.13(a) sets forth various compliance dates for the testing and development for connectivity, acceptance and the submission order data. In light of the intent to shift to Phased Reporting in place of the two specified dates for the commencement of reporting for Large and Small Industry Members, the Exchange correspondingly proposes to replace the Industry Member development testing milestones in Rule 6880(a) with the testing milestones set forth in the exemptive relief. Specifically, the Exchange proposes to replace Rule 6880(a) with the following:

(1) Industry Member file submission and data integrity testing for Phases 2a and 2b shall begin in December 2019.

(2) Industry Member testing of the Reporter Portal, including data integrity error correction tools and data submissions, shall begin in February 2020.

(3) The Industry Member test environment shall open with intra-firm linkage validations to Industry Members for both Phases 2a and 2b in April 2020.

(4) The Industry Member test environment shall open to Industry Members with inter-firm linkage validations for both Phases 2a and 2b in July 2020.

(5) The Industry Member test environment shall open to Industry Members with Phase 2c functionality (full representative order linkages) in January 2021.

(6) The Industry Member test environment shall open to Industry Members with Phase 2d functionality (manual options orders, complex options orders, and options allocations) in June 2021.

(7) Participant exchanges that support options market making quoting shall begin accepting Quote Sent Time on quotes from Industry Members no later than April 2020.

(8) The Industry Member test environment (customer and account information) will be open to Industry Members in January 2022.

iv. Granularity of Timestamps

On February 3, 2020, the Participants filed with the Commission a request for exemptive relief from the requirement in Section 6.8(b) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require that, to the extent that its Industry Members utilize timestamps in increments finer than nanoseconds in their order handling or execution systems, such Industry Members utilize such finer increment when reporting CAT Data to the Central Repository.²³ On April 8, 2020, the

²³ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Granularity of Timestamps and Relationship Identifiers (Feb. 3, 2020).

Participants received the exemptive relief.²⁴ As a condition to this exemption, the Participants, through their Compliance Rules, will require Industry Members that capture timestamps in increments more granular than nanoseconds to truncate the timestamps, after the nanosecond level for submission to CAT, not round up or down in such circumstances. The timestamp granularity exemption remains in effect for five years, until April 8, 2025. After five years, the exemption would no longer be in effect unless the period the exemption is in effect is extended by the SEC.

Accordingly, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief. Specifically, the Exchange proposes to amend paragraph (a)(2) of Rule 4.10. Rule 4.10(a)(2) states that

Subject to paragraph (b), to the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, such Industry Member shall record and report Industry Member Data to the Central Repository with time stamps in such finer increment.

The Exchange proposes to amend this provision to read as follows to reflect the exemptive relief:

Subject to paragraph (b), to the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, such Industry Member shall record and report Industry Member Data to the Central Repository with time stamps in such finer increment up to nanoseconds; provided, that Industry Members that capture timestamps in increments more granular than nanoseconds must truncate the timestamps after the nanosecond level for submission to CAT, rather than rounding such timestamps up or down, until April 8, 2025.

v. Introducing Industry Members

On February 3, 2020, the Participants requested that the Commission exempt broker-dealers that do not qualify as Small Industry Members solely because they satisfy Rule 0–10(i)(2) under the Exchange Act and, as a result, are deemed affiliated with an entity that is not a small business or small organization (“Introducing Industry Member”) from the requirements in the CAT NMS Plan applicable to Industry Members other than Small Industry Members (“Large Industry Members”).²⁵

Instead, such Introducing Industry Members would comply with the requirements in the CAT NMS Plan applicable to Small Industry Members. On April 20, 2020, the SEC granted the Participants exemptive relief with regard to Introducing Industry Members.²⁶

As a result, the Exchange proposes to amend its Compliance Rule to adopt a definition of “Introducing Industry Member” and to revise Rule 4.16 to require Introducing Industry Members to comply with the requirements of the CAT NMS Plan applicable to Small Industry Members. Specifically, the Exchange proposes to define “Introducing Industry Member” in proposed paragraph (v) to Rule 4.5, as “a broker-dealer that does not qualify as a Small Industry Member solely because such broker-dealer satisfies Rule 0–10(i)(2) under the Exchange Act in that it introduces transactions on a fully disclosed basis to clearing firms that are not small businesses or small organizations.” The Exchange also proposes to add a new paragraph (3) to Rule 4.16(c) to state that “Introducing Industry Members must comply with the requirements of the CAT NMS Plan applicable to Small Industry Members.” With these changes, Introducing Industry Members would be required to comply with the requirements in the CAT NMS Plan applicable to Small Industry Members.

vi. CCID/PII

On January 29, 2020, the Participants filed with the Commission a request for exemptive relief from certain requirements related to reporting SSNs, dates of birth and account numbers to the CAT.²⁷ The Commission, Participants and others indicated security concerns with maintaining such sensitive Customer information in the CAT. On March 17, 2020, the Participants received the exemptive relief, subject to certain conditions.²⁸

Audit Trail related to Small Industry Members (Feb. 3, 2020).

²⁶ See Securities Exchange Act Release No. 88703 (April 20, 2020), 85 FR 23115 (April 24, 2020).

²⁷ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Jan. 29, 2020).

²⁸ See Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020) (Order Granting Conditional Exemptive Relief, Pursuant to Section 36 and Rule 608(e) of the Securities Exchange Act of 1934, from Section 6.4(d)(ii)(C) and Appendix D Sections 4.1.6, 6.2, 8.1.1, 8.2, 9.1, 9.2, 9.4, 10.1, and 10.3 of the National Market System Plan Governing the

Assuming the Participants comply with the conditions set forth in the PII Exemption Order, Industry Members would not be required to report SSNs, dates of birth and account numbers to the CAT NMS Plan.

As described in the request for exemptive relief, the Participants requested exemptive relief to allow for an alternative approach to generating a CAT Customer ID (“CCID”) without requiring Industry Members to report SSNs to the CAT (the “CCID Alternative”). In lieu of retaining such SSNs in the CAT, the Participants would use the CCID Alternative, a strategy developed by the Chief Information Security Officer for the CAT and the Chief Information Security Officers from each of the Participants, in consultation with security experts from member firms of Securities Industry and Financial Markets Association. The CCID Alternative facilitates the ability of the Plan Processor to generate a CCID without requiring the Plan Processor to receive SSNs or store SSNs within the CAT. Under the CCID Alternative, the Plan Processor would generate a unique CCID using a two-phase transformation process that avoids having SSNs reported to or stored in the CAT. In the first transformation phase, a CAT Reporter would transform the SSN to an interim value (the “transformed value”). This transformed value, and not the SSN, would be submitted to a separate system within the CAT (“CCID Subsystem”). The CCID Subsystem would then perform a second transformation to create the globally unique CCID for each Customer that is unknown to, and not shared with, the original CAT Reporter. The CCID would then be sent to the customer and account information system of the CAT, where it would be linked with the other customer and account information. The CCID may then be used by the Participants’ regulatory staff and the SEC in queries and analysis of CAT Data. To implement the CCID Alternative, the Participants requested exemptive relief from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan to require, through their Compliance Rules, Industry Members to record and report SSNs to the Central Repository for the original receipt of an order. As set forth in one condition of the PII Exemption Order, Industry Members would be required to transform an SSN to an interim value,

Consolidated Audit Trail) (“PII Exemption Order”). The PII Exemption Order lists several conditions that must be met by the Exchange. If the Exchange does not satisfy the conditions, the PII Exemption Order would not apply to the Exchange.

²⁴ See Securities Exchange Act Release No. 88608 (April 8, 2020), 85 FR 20743 (April 14, 2020).

²⁵ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated

and report the transformed value to the CAT.

The Participants also requested exemptive relief to allow for an alternative approach which would exempt the reporting of dates of birth and account numbers²⁹ to the CAT (“Modified PII Approach”), and instead would require Industry Members to report the year of birth and the Firm Designated ID for each trading account associated with the Customers. To implement the Modified PII Approach, the Participants requested exemptive relief from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan to require, through their Compliance Rules, Industry Members to record and report to the Central Repository for the original receipt of an order dates of birth and account numbers for Customers. As conditions to the exemption, Industry Members would be required to report the year of birth of an individual to the Central Repository, and to report the Firm Designated ID to the Central Repository.

To implement the request for exemptive relief and to eliminate the requirement to report SSNs, date of birth and account numbers to the CAT, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief. Rule 4.7(a)(2)(C) states that

[s]ubject to paragraph (3) below, each Industry Member shall record and report to the Central Repository the following, as applicable (“Received Industry Member Data” and collectively with the information referred to in Rule 6830(a)(1) “Industry Member Data”) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan: . . . (C) for original receipt or origination of an order, the Firm Designated ID for the relevant Customer, and in accordance with Rule 6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

Similarly, Rule 4.8 requires the reporting of Customer Account Information and Customer Identifying Information to the Central Repository. Currently, Rule 4.5(m) defines “Customer Identifying Information” to include, with respect to individuals, “date of birth” and “individual tax payer identification number (“ITIN”)/social security number (“SSN”).” Accordingly, the Exchange proposes to replace “date of birth” in the definition of “Customer Identifying Information” in Rule 4.5(m) (now renumbered Rule

4.5(n)) with “year of birth” and to delete “individual tax payer identification number (“ITIN”)/social security number (“SSN”)” from Rule 6810(m) (now renumbered Rule 6810(n)). In addition, currently, Rule 4.5(l) defines “Customer Account Information” to include account numbers. The Exchange proposes to delete “account number” from the definition of “Customer Account Information” in Rule 4.5(l) (now renumbered Rule 6810(m)).

The Exchange also proposes to add a definition of the term “Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”)” to Rule 4.5. Specifically, the Exchange proposes to add paragraph (pp) to Rule 4.5 to define “Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”)” to mean “the interim value created by an Industry Member based on a Customer ITIN/SSN.”

The Exchange proposes to revise Rule 4.7(a)(2)(C) to include the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”). Specifically, the Exchange proposes to revise Rule 6830(a)(2)(C) to state:

[s]ubject to paragraph (3) below, each Industry Member shall record and report to the Central Repository the following, as applicable (“Received Industry Member Data” and collectively with the information referred to in Rule 6830(a)(1) “Industry Member Data”) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan: . . . (C) for original receipt or origination of an order, the Firm Designated ID for the relevant Customer, Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”), and in accordance with Rule 6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

The Exchange also proposes to include the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) in the Customer information reporting required under Rule 4.8. Specifically, the Exchange proposes to revise Rule 4.8(a) to require each Industry Member to submit to the Central Repository the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”), for each of its Customers with an Active Account prior to such Industry Member’s commencement of reporting to the Central Repository and in accordance with the deadlines set forth in Rule 6880. The Exchange also proposes to revise Rule 4.8(b) to require each Industry Member to submit to the

Central Repository any updates, additions or other changes to the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) for each of its Customers with an Active Account on a daily basis. In addition, the Exchange proposes to revise Rule 4.8(c) to require, on a periodic basis as designated by the Plan Processor and approved by the Operating Committee, each Industry Member to submit to the Central Repository a complete set of the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) for each of its Customers with an Active Account. The Exchange also proposes to revise Rule 4.8(d) to require, for each Industry Member for which errors in the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) for each of its Customers with an Active Account submitted to the Central Repository have been identified by the Plan Processor or otherwise, such Industry Member to submit corrected data to the Central Repository by 5:00 p.m. Eastern Time on T+3.

Paragraph (1)(B) of Rule 4.5(m), the definition of “Customer Account Information” states that “in those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution, the Industry Member will” . . . “provide the relationship identifier in lieu of the “account number.” As an account number will no longer be an element in “Customer Account Information,” the relationship identifier used in lieu of the account number will no longer be required as an element of Customer Account Information. Therefore, the Exchange proposes to delete the requirement set forth in Rule 6810(m)(a)(B) regarding relationship identifiers from Rule 4.5(m).

With these changes, Industry Members would not be required to report to the Central Repository dates of birth, SSNs or account numbers pursuant to Rule 4.7(a)(2)(C). However, Industry Members would be required to report the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) and the year of birth to the Central Repository.³⁰

vii. FINRA Facility Data Linkage

On June 5, 2020, the Participants filed with the Commission a request for

²⁹ With respect to this aspect of the requested relief, the PII Exemption Order provided relief with regard to the reporting of all account numbers, not just account numbers for individuals as requested by the Participants.

³⁰ The Exchange anticipates that the Compliance Rule may be further amended when further details regarding the CCID Alternative are finalized.

exemptive relief from certain provisions of the CAT NMS Plan to allow for an alternative approach to the reporting of clearing numbers and cancelled trade indicators.³¹ The SEC provided this exemptive relief on June 11, 2020.³² FINRA is required to report to the Central Repository data collected by FINRA's Trade Reporting Facilities, FINRA's OTC Reporting Facility or FINRA's Alternative Display Facility (collectively, "FINRA Facility") pursuant to applicable SRO rules ("FINRA Facility Data"). Included in this FINRA Facility Data is the clearing number of the clearing broker for a reported trade as well as the cancelled trade indicator. Under this alternative approach, the clearing number and the cancelled trade indicator of the FINRA Facility Data that is reported to the CAT would be linked to the related execution reports reported by Industry Members. To implement this approach in a phased manner, the Participants received exemptive relief from the requirement in Sections 6.4(d)(ii)(A)(2) and (B) of the CAT NMS Plan to require, through their Compliance Rules, that Industry Members record and report to the Central Repository: (1) If the order is executed, in whole or in part, the SRO-Assigned Market Participant Identifier of the clearing broker, if applicable; and (2) if the trade is cancelled, a cancelled trade indicator, subject to certain conditions.

As a condition to this exemption, the Participants would continue to require Industry Members to submit a trade report for a trade, and, if the trade is cancelled, a cancellation, to a FINRA Facility pursuant to applicable SRO rules, and to report the corresponding execution to the Central Repository. In addition, Industry Members would be required to report to the Central Repository the unique trade identifier reported to a FINRA Facility with the corresponding trade report. Furthermore, if an Industry Member does not submit a cancellation to a FINRA Facility, or is unable to provide a link between the execution reported to the Central Repository and the related FINRA Facility trade report, then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator

and cancelled trade timestamp if the trade is cancelled. Similarly, if an Industry Member does not submit the clearing number of the clearing broker to a FINRA Facility for a trade, or is unable to provide a link between the execution reported to the Central Repository and the related FINRA Facility trade report, then the Industry Member would be required to record and report to the Central Repository the clearing number as well as contra party information.

As a result, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief to implement this alternative approach. Specifically, the Exchange proposes to require Industry Members to report to the CAT with an execution report the unique trade identifier reported to a FINRA facility with the corresponding trade report. For example, the unique trade identifier for the OTC Reporting Facility and the Alternative Display Facility would be the Compliance ID, for the FINRA/Nasdaq Trade Reporting Facility, it would be the Branch Sequence Number, and for the FINRA/NYSE Trade Reporting Facility, it would be the FINRA Compliance Number. This unique trade identifier would be used to link the FINRA Facility Data with the execution report in the CAT. Specifically, the Exchange proposes to add new paragraph (a)(2)(E) to Rule 4.7, which states that:

(E) If an Industry Member is required to submit and submits a trade report for a trade, and, if the trade is cancelled, a cancellation, to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, and the Industry Member is required to report the corresponding execution and/or cancellation to the Central Repository:

(1) The Industry Member is required to report to the Central Repository trade identifier reported by the Industry Member to such FINRA facility for the trade when the Industry Member reports the execution of an order pursuant to Rule 4.7(a)(1)(E) or cancellation of an order pursuant to Rule 4.7(a)(1)(D) beginning June 22, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters, and such trade identifier must be unique beginning October 26, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters.

The Exchange also proposes to relieve Industry Members of the obligation to report to the CAT data related to clearing brokers and trade cancellations pursuant to Rules 4.7(a)(2)(A)(2) and (B), respectively, as this data will be reported by FINRA to the CAT, except in certain circumstances. Accordingly,

the Exchange proposes new paragraphs (a)(2)(E)(2) and (3) to Rule 4.7, which would state:

(2) If the order is executed in whole or in part, and the Industry Member submits the trade report to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, the Industry Member is not required to submit the SRO-Assigned Market Participant Identifier of the clearing broker pursuant to Rule 4.7(a)(2)(A)(2); provided, however, if the Industry Member does not report the clearing number of the clearing broker to such FINRA facility for a trade, or does not report the unique trade identifier to the Central Repository as required by Rule 4.7(a)(2)(E)(1), then the Industry Member would be required to record and report to the Central Repository the clearing number of the clearing broker as well as information about the contra party to the trade beginning April 26, 2021 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters; and

(3) if the trade is cancelled and the Industry Member submits the cancellation to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, the Industry Member is not required to submit the cancelled trade indicator pursuant to Rule 4.7(a)(2)(B); provided, however, if the Industry Member does not report a cancellation for a canceled trade to such FINRA facility, or does not report the unique trade identifier as required by 4.7(a)(2)(E)(1), then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator as well as a cancelled trade timestamp beginning June 22, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters.

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. Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) 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

³¹ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to FINRA Facility Data Linkage (June 5, 2020).

³² See Securities Exchange Act Release No. 89051 (June 11, 2020) (**Federal Register** publication pending).

the Section 6(b)(5) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that this proposal is consistent with the Act because it is consistent with certain exemptions from the CAT NMS Plan, because it facilitates the retirement of certain existing regulatory systems, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan “is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.”³³ To the extent that this proposal implements the Plan, including the exemptive relief, and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule changes are consistent with certain exemptions from the CAT NMS Plan, facilitate the retirement of certain existing regulatory systems, and are designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. The Exchange also notes that the amendments to the Compliance Rules will apply equally to all Industry Members that trade NMS Securities and OTC Equity Securities. In addition, all national securities exchanges and FINRA are proposing these amendments to their Compliance Rules. Therefore, this is not a competitive rule filing, and, therefore, it does not impose a 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 foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act³⁴ and subparagraph (f)(6) of Rule 19b-4 thereunder.³⁵

A proposed rule change filed under Rule 19b-4(f)(6)³⁶ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),³⁷ 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 by June 22, 2020. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it implements exemptive relief from the CAT NMS Plan granted by the Commission and facilitates the start of Industry Member reporting on June 22, 2020. In addition, as noted by the Exchange, the proposed rule change is based on a filing recently approved by the Commission.³⁸ Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative as of June 22, 2020.³⁹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the

³⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

³⁵ 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 the 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.

³⁶ 17 CFR 240.19b-4(f)(6).

³⁷ 17 CFR 240.19b-4(f)(6)(iii).

³⁸ See Securities Exchange Act Release No. 89108 (June 19, 2020).

³⁹ 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).

Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeEDGX-2020-030 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CboeEDGX-2020-030. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeEDGX-2020-030 and should be submitted on or before July 20, 2020.

³³ See Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696, 84697 (November 23, 2016).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁰

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2020–13876 Filed 6–26–20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89138; File No. SR–CboeBYX–2020–019]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Amend Certain Rules Within Rules 4.5 Through 4.16, Which Contain the Exchange's Compliance Rule ("Compliance Rule") Regarding the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan" or "Plan")

June 23, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b–4 thereunder,² notice is hereby given that on June 22, 2020, Cboe BYX Exchange, Inc. ("Exchange" or "BYX") 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

Cboe BYX Exchange, Inc. (the "Exchange" or "Cboe BYX") proposes to amend certain Rules within Rules 4.5 through 4.16, which contain the Exchange's compliance rule ("Compliance Rule") regarding the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan" or "Plan"). The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/equities/regulation/rule_filings/byx/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend the Consolidated Audit Trail ("CAT") Compliance Rule in Rules 4.5 through 4.16 to be consistent with certain proposed amendments to and exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems. As described more fully below, the proposed rule change would make the following changes to the Compliance Rule:

- Add additional data elements to the consolidated audit trail ("CAT") reporting requirements for Industry Members to facilitate the retirement of the Financial Industry Regulatory Authority, Inc.'s ("FINRA") Order Audit Trail System ("OATS");
- Add additional data elements

related to OTC Equity Securities that FINRA currently receives from alternative trading systems ("ATs") that trade OTC Equity Securities for regulatory oversight purposes to the CAT reporting requirements for Industry Members;

- Implement a phased approach for Industry Member reporting to the CAT ("Phased Reporting");
- To the extent that any Industry

Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, revise the timestamp granularity requirement to require such Industry Member to record and report Industry Member Data to the Central Repository with time stamps in such finer increment up to nanoseconds;

- Require Introducing Industry Members (as defined below) to comply with the requirements of the CAT NMS Plan applicable to Small Industry Members;

- Revise the CAT reporting requirements so Industry Members would not be required to report to the Central Repository dates of birth, "individual tax payer identification number ("ITIN")/social security number ("SSN")" (collectively, referred to as "SSNs") or account numbers; and

- Revise the CAT reporting requirements regarding cancelled trades and SRO-Assigned Market Participant Identifiers of clearing brokers, if applicable, in connection with order executions, as such information will be available from FINRA's trade reports submitted to the CAT.

i. CAT–OATS Data Gaps

The Participants have worked to identify gaps between data reported to existing systems and data to be reported to the CAT to "ensure that by the time Industry Members are required to report to the CAT, the CAT will include all data elements necessary to facilitate the rapid retirement of duplicative systems."³ As a result of this process, the Participants identified several data elements that must be included in the CAT reporting requirements before existing systems can be retired. In particular, the Participants identified certain data elements that are required by OATS, but not currently enumerated in the CAT NMS Plan. Accordingly, the Exchange proposes to amend its Compliance Rule to include these OATS data elements in the CAT. Each of such OATS data elements are discussed below. With the addition of these OATS data elements to the CAT, the CAT will have the data elements necessary to retire OATS.

A. Information Barrier Identification

The FINRA OATS rules require OATS Reporting Members⁴ to record the identification of information barriers for certain order events, including when an order is received or originated, transmitted to a department within the OATS Reporting Member, and when it is modified. The Participants propose to amend the Compliance Rule to incorporate these requirements into the CAT.

Specifically, FINRA Rule 7440(b)(20) requires a FINRA OATS Reporting Member to record the following when an order is received or originated: "if

³ Letter from Participants to Brent J. Fields, Secretary, SEC, re: File Number 4–698; Notice of Filing of the National Market System Plan Governing the Consolidated Audit Trail (September 23, 2016) at 21 ("Participants' Response to Comments") (available at <https://www.sec.gov/comments/4-698/4698-32.pdf>).

⁴ An OATS "Reporting Member" is defined in FINRA Rule 7410(o).

⁴⁰ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

the member is relying on the exception provided in Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member where the order was received or originated.”⁵ The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(7) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for original receipt or origination of an order, “the unique identification of any appropriate information barriers in place at the department within the Industry Member where the order was received or originated.”

In addition, FINRA Rule 7440(c)(1) states that “[w]hen a Reporting Member transmits an order to a department within the member, the Reporting Member shall record: . . . (H) if the member is relying on the exception provided in Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member to which the order was transmitted.” The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to revise paragraph (a)(1)(B)(6) of Rule 4.7 to require, for the routing of an order, if routed internally at the Industry Member, “the unique identification of any appropriate information barriers in place at the department within the Industry Member to which the order was transmitted.”

FINRA Rule 7440(c)(2)(B) and 7440(c)(4)(B) require an OATS Reporting Member that receives an order transmitted from another member to report the unique identification of any appropriate information barriers in place at the department within the member to which the order was transmitted. The Compliance Rule not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(C)(7) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for the receipt of an order that has been routed, “the unique identification of any appropriate information barriers in place at the

department within the Industry Member which received the order.”

FINRA Rule 7440(d)(1) requires an OATS Reporting Member that modifies or receives a modification to the terms of an order to report the unique identification of any appropriate information barriers in place at the department within the member to which the modification was originated or received. The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(D)(7) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, if the order is modified or cancelled, “the unique identification of any appropriate information barriers in place at the department within the Industry Member which received or originated the modification.”

B. Reporting Requirements for ATSs

Under FINRA Rule 4554, ATSs that receive orders in NMS stocks are required to report certain order information to OATS, which FINRA uses to reconstruct ATS order books and perform order-based surveillance, including layering, spoofing, and mid-point pricing manipulation surveillance.⁶ The Participants believe that Industry Members operating ATSs—whether such ATS trades NMS stocks or OTC Equity Securities—should likewise be required to report this information to the CAT. Because ATSs that trade NMS stocks are already recording this information and reporting it to OATS, the Participants believe that reporting the same information to the CAT should impose little burden on these ATSs. Moreover, including this information in the CAT is also necessary for FINRA to be able to retire the OATS system. The Participants similarly believe that obtaining the same information from ATSs that trade OTC Equity Securities will be important for purposes of reconstructing ATS order books and surveillance. Accordingly, the Exchange proposes to add to the data reporting requirements in the Compliance Rule the reporting requirements for ATSs in FINRA Rule 4554,⁷ but to expand such requirements

so that they are applicable to all ATSs rather than solely to ATSs that trade NMS stocks.

(i) New Definition

The Exchange proposes to add a definition of “ATS” to new paragraph (d) of Rule 4.5 to facilitate the addition to the CAT of the reporting requirements for ATSs set forth in FINRA Rule 4554. The Exchange proposes to define an “ATS” to mean “an alternative trading system, as defined in Rule 300(a)(1) of Regulation ATS under the Exchange Act.”

(ii) ATS Order Type

FINRA Rule 4554(b)(5) requires the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

A unique identifier for each order type offered by the ATS. An ATS must provide FINRA with (i) a list of all of its order types 20 days before such order types become effective and (ii) any changes to its order types 20 days before such changes become effective. An identifier shall not be required for market and limit orders that have no other special handling instructions.

The Compliance Rule does not require Industry Members to report such order type information to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate these requirements into four new provisions to the Compliance Rule: paragraphs (a)(1)(A)(11)(a), (a)(1)(C)(10)(a), (a)(1)(D)(9)(a) and (a)(2)(D) of Rule 4.7.

Proposed paragraph (a)(1)(A)(11)(a) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository for the original receipt or origination of an order “the ATS’s unique identifier for the order type of the order.” Proposed paragraph (a)(1)(C)(10)(a) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository for the receipt of an order that has been routed “the ATS’s unique identifier for the order type of the order.” Proposed paragraph (a)(1)(D)(9)(a) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository if the order is modified or cancelled “the ATS’s unique identifier for the order type of the order.” Furthermore, as with the requirements

sheets, and the CAT up-to-date, which included adding data fields related to the tick size pilot and ATS order book amendments to the OATS rules. See Participants’ Response to Comments at 21. However, due to the timing of the expiration of the tick size pilot, the Participants decided not to include those data elements into the CAT NMS Plan.

⁵ FINRA Rule 5320 prohibits trading ahead of customer orders.

⁶ See FINRA *Regulatory Notice* 16–28 (August 2016).

⁷ FINRA Rule 4554 was approved by the SEC on May 10, 2016, while the CAT NMS Plan was pending with the Commission. See Securities Exchange Act Release No. 77798 (May 10, 2016), 81 FR 30395 (May 16, 2016) (Order Approving SR–FINRA–2016–010). As noted in the Participants’ Response to Comments, throughout the process of developing the Plan, the Participants worked to keep the gap analyses for OATS, electronic blue

in FINRA Rule 4554(b)(5), proposed paragraph (a)(2)(D) of Rule 4.7 would state that:

An Industry Member that operates an ATS must provide to the Central Repository: (1) a list of all of its order types twenty (20) days before such order types become effective; and (2) any changes to its order types twenty (20) days before such changes become effective. An identifier shall not be required for market and limit orders that have no other special handling instructions.

(iii) National Best Bid and Offer

FINRA Rules 4554(b)(6) and (7) require the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

(6) The NBBO (or relevant reference price) in effect at the time of order receipt and the timestamp of when the ATS recorded the effective NBBO (or relevant reference price); and

(7) Identification of the market data feed used by the ATS to record the NBBO (or other reference price) for purposes of subparagraph (6). If for any reason, the ATS uses an alternative feed than what was reported on its ATS data submission, the ATS must notify FINRA of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Similarly, FINRA Rule 4554(c) requires the following information to be recorded and reported to FINRA by ATSs when reporting the execution of an order to OATS:

(1) The NBBO (or relevant reference price) in effect at the time of order execution;

(2) The timestamp of when the ATS recorded the effective NBBO (or relevant reference price); and

(3) Identification of the market data feed used by the ATS to record the NBBO (or other reference price) for purposes of subparagraph (1). If for any reason, the ATS uses an alternative feed than what was reported on its ATS data submission, the ATS must notify FINRA of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

The Compliance Rule does not require Industry Members to report such NBBO information to the Central Repository. To address this OATS-CAT data gap, the Exchange proposes to incorporate these requirements into four new provisions to the Compliance Rule: (a)(1)(A)(11)(b)-(c), (a)(1)(C)(10)(b)-(c), (a)(1)(D)(9)(b)-(c) and (a)(1)(E)(8)(a)-(b) of Rule 4.7.

Specifically, proposed paragraph (a)(1)(A)(11)(b)-(c) of Rule 4.7 would require an Industry Member that

operates an ATS to record and report to the Central Repository the following information when reporting the original receipt or origination of order:

(2) the National Best Bid and National Best Offer (or relevant reference price) at the time of order receipt or origination, and the date and time at which the ATS recorded such National Best Bid and National Best Offer (or relevant reference price);

(3) the identification of the market data feed used by the ATS to record the National Best Bid and National Best Offer (or relevant reference price) for purposes of subparagraph (1)(b). If for any reason the ATS uses an alternative market data feed than what was reported on its ATS data submission, the ATS must provide notice to the Central Repository of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Similarly, proposed paragraphs (a)(1)(C)(10)(b)-(c), (a)(1)(D)(9)(b)-(c) and (a)(1)(E)(8)(a)-(b) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository the same information when reporting receipt of an order that has been routed, when reporting if the order is modified or cancelled, and when an order has been executed, respectively.

(iv) Sequence Numbers

FINRA Rule 4554(d) states that “[f]or all OATS-reportable event types, all ATSs must record and report to FINRA the sequence number assigned to the order event by the ATS’s matching engine.” The Compliance Rule does not require Industry Members to report ATS sequence numbers to the Central Repository. To address this OATS-CAT data gap, the Exchange proposes to incorporate this requirement regarding ATS sequence numbers into each of the Reportable Events for the CAT. Specifically, the Exchange proposes to add proposed paragraph (a)(1)(A)(11)(d) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository “the sequence number assigned to the receipt or origination of the order by the ATS’s matching engine.” The Exchange proposes to add proposed paragraph (a)(1)(B)(8) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository “the sequence number assigned to the routing of the order by the ATS’s matching engine.” The Exchange also proposes to add proposed paragraph (a)(1)(C)(10)(d) to Rule 4.7, which would require an Industry Member that

operates an ATS to record and report to the Central Repository “the sequence number assigned to the receipt of the order by the ATS’s matching engine.” In addition, the Exchange proposes to add proposed paragraph (a)(1)(D)(9)(d) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository “the sequence number assigned to the modification or cancellation of the order by the ATS’s matching engine.” Finally, the Exchange proposes to add proposed paragraph (a)(1)(E)(8)(c) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository “the sequence number assigned to the execution of the order by the ATS’s matching engine.”

(v) Modification or Cancellation of Orders by ATSs

(v) Modification or Cancellation of Orders by ATSs

FINRA Rule 4554(f) states that “[f]or an ATS that displays subscriber orders, each time the ATS’s matching engine re-prices a displayed order or changes the display quantity of a displayed order, the ATS must report to OATS the time of such modification,” and “the applicable new display price or size.” The Exchange proposes adding a comparable requirement into new paragraph (a)(1)(D)(9)(e) to Rule 4.7. Specifically, proposed new paragraph (a)(1)(D)(9)(e) of Rule 4.7 would require an Industry Member that operates an ATS to report to the Central Repository, if the order is modified or cancelled, “each time the ATS’s matching engine re-prices an order or changes the quantity of an order,” the ATS must report to the Central Repository “the time of such modification, and the applicable new price or size.” Proposed paragraph (a)(1)(D)(9)(e) of Rule 4.7 would apply to all ATSs, not just ATSs that display orders.

(vi) Display of Subscriber Orders

FINRA Rule 4554(b)(1) requires the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

Whether the ATS displays subscriber orders outside the ATS (other than to alternative trading system employees). If an ATS does display subscriber orders outside the ATS (other than to alternative trading system employees), indicate whether the order is displayed to subscribers only or through publicly disseminated quotation data);

The Compliance Rule does not require Industry Members to report to the CAT such information about the displaying of subscriber orders. The Exchange proposes to add comparable requirements into proposed paragraphs (a)(1)(A)(11)(e) and (a)(1)(C)(10)(e) of Rule 4.7. Specifically, proposed

paragraph (a)(1)(A)(11)(e) would require an Industry Member that operates an ATS to report to the Central Repository, for the original receipt or origination of an order,

whether the ATS displays subscriber orders outside the ATS (other than to alternative trading system employees). If an ATS does display subscriber orders outside the ATS (other than to alternative trading system employees), indicate whether the order is displayed to subscribers only or through publicly disseminated quotation data.

Similarly, proposed paragraph (a)(1)(C)(10)(e) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository the same information when reporting receipt of an order that has been routed.

C. Customer Instruction Flag

FINRA Rule 7440(b)(14) requires a FINRA OATS Reporting Member to record the following when an order is received or originated: “any request by a customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.” The Compliance Rule does not require Industry Members to report to the CAT such a customer instruction flag. To address this OATS–CAT data gap, the Exchange proposes to add paragraph (a)(1)(A)(8) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for original receipt or origination of an order, “any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.” The Exchange also proposes to add paragraph (a)(1)(C)(9) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for the receipt of an order that has been routed, “any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.”

FINRA Rule 7440(d)(1) requires an OATS Reporting Member that modifies or receives a modification of an order to report the customer instruction flag. The Compliance Rule does not require Industry Members to report such a customer instruction flag. To address this OATS–CAT data gap, the Exchange proposes to add paragraph (a)(1)(D)(8) to Rule 4.7 which would require Industry Members to record and report to the Central Repository, if the order is modified or cancelled, “any request by a Customer that a limit order not be displayed, or that a block size limit

order be displayed, pursuant to applicable rules.”

D. Department Type

FINRA Rules 7440(b)(4) and (5) require an OATS Reporting Member that receives or originates an order to record the following information: “the identification of any department or the identification number of any terminal where an order is received directly from a customer” and “where the order is originated by a Reporting Member, the identification of the department of the member that originates the order.” The Compliance Rule does not require Industry Members to report to the CAT information regarding the department or terminal where the order is received or originated. To address this OATS–CAT data gap, the Exchange proposes to add paragraph (a)(1)(A)(9) to Rule 4.7, which would require Industry Members to record and report to the Central Repository upon the original receipt or origination of an order “the nature of the department or desk that originated the order, or received the order from a Customer.”

Similarly, per FINRA Rules 7440(c)(2)(B) and (4)(B), when an OATS Reporting Member receives an order that has been transmitted by another Member, the receiving OATS Reporting Member is required to record the information required in 7440(b)(4) and (5) described above as applicable. The Compliance Rule does not require Industry Members to report to the CAT information regarding the department that received an order. To address this OATS–CAT data gap, the Exchange propose to add paragraph (a)(1)(C)(8) to Rule 4.7 which would require Industry Members to record and report to the Central Repository upon the receipt of an order that has been routed “the nature of the department or desk that received the order.”

E. Account Holder Type

FINRA Rule 7440(b)(18) requires an OATS Reporting Member that receives or originates an order to record the following information: “the type of account, *i.e.*, retail, wholesale, employee, proprietary, or any other type of account designated by FINRA, for which the order is submitted.” The Compliance Rule does not require Industry Members to report to the CAT information regarding the type of account holder for which the order is submitted. To address this OATS–CAT data gap, the Exchange proposes to add paragraph (a)(1)(A)(10) to Rule 4.7, which would require Industry Members to record and report to the Central Repository upon the original receipt or

origination of an order “the type of account holder for which the order is submitted.”

ii. OTC Equity Securities

The Participants have identified several data elements related to OTC Equity Securities that FINRA currently receives from ATSs that trade OTC Equity Securities for regulatory oversight purposes, but are not currently included in CAT Data. In particular, the Participants identified three data elements that need to be added to the CAT: (1) Bids and offers for OTC Equity Securities; (2) a flag indicating whether a quote in OTC Equity Securities is solicited or unsolicited; and (3) unpriced bids and offers in OTC Equity Securities. The Participants believe that such data will continue to be important for regulators to oversee the OTC Equity Securities market when using the CAT. Moreover, the Participants do not believe that the proposed requirement would burden ATSs because they currently report this information to FINRA and thus the reporting requirement would merely shift from FINRA to the CAT. Accordingly, as discussed below, the Exchange proposes to amend its Compliance Rule to include these data elements.

A. Bids and Offers for OTC Equity Securities

In performing its current regulatory oversight, FINRA receives a data feed of the best bids and offers in OTC Equity Securities from ATSs that trade OTC Equity Securities. These best bid and offer data feeds for OTC Equity Securities are similar to the best bid and offer SIP Data required to be collected by the Central Repository with regard to NMS Securities.⁸ Accordingly, the Exchange proposes to add paragraph (f)(1) to Rule 4.7 to require the reporting of the best bid and offer data feeds for OTC Equity Securities to the CAT. Specifically, proposed paragraph (f)(1) of Rule 4.7 would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository “the best bid and best offer for each OTC Equity Security traded on such ATS.”

B. Unsolicited Bid or Offer Flag

FINRA also receives from ATSs that trade OTC Equity Securities an indication whether each bid or offer in OTC Equity Securities on such ATS was solicited or unsolicited. Therefore, the Exchange proposes to add paragraph (f)(2) to Rule 4.7 to require the reporting to the CAT of an indication as to

⁸ Section 6.5(a)(ii) of the CAT NMS Plan.

whether a bid or offer was solicited or unsolicited. Specifically, proposed paragraph (f)(2) of Rule 4.7 would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository “an indication of whether each bid and offer for OTC Equity Securities was solicited or unsolicited.”

C. Unpriced Bids and Offers

FINRA receives from ATSs that trade OTC Equity Securities certain unpriced bids and offers for each OTC Equity Security traded on the ATS. Therefore, the Exchange proposes to add paragraph (f)(3) to Rule 4.7, which would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository “the unpriced bids and offers for each OTC Equity Security traded on such ATS.

iii. Revised Industry Member Reporting Timeline

On February 19, 2020, the Participants filed with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to allow for the implementation of phased reporting to the CAT by Industry Members (“Phased Reporting”).⁹ Specifically, in their exemptive request, the Participants requested that the SEC exempt each Participant from the requirement in Section 6.7(a)(v) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require its Industry Members other than Small Industry Members (“Large Industry Members”) to report to the Central Repository Industry Member Data within two years of the Effective Date (that is, by November 15, 2018). In addition, the Participants requested that the SEC exempt each Participant from the requirement in Section 6.7(a)(vi) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require its Small Industry Members¹⁰ to report to the Central Repository Industry Member Data within three years of the Effective Date (that is, by November 15, 2019). Correspondingly, the Participants requested that the SEC provide an exemption from the requirement in Section 6.4 of the CAT NMS Plan that “[t]he requirements for Industry Members under this Section 6.4 shall become effective on the second

anniversary of the Effective Date in the case of Industry Members other than Small Industry Members, or the third anniversary of the Effective Date in the case of Small Industry Members.” On April 20, 2020, the SEC granted the Participants exemptive relief to implement Phased Reporting, subject to certain timeline changes and conditions.¹¹

As a condition to the exemption, each Participant would implement Phased Reporting through its Compliance Rule by requiring:

(1) Its Large Industry Members and its Small Industry Members that are required to record or report information to OATS pursuant to applicable SRO rules (“Small Industry OATS Reporters”) to commence reporting to the Central Repository Phase 2a Industry Member Data by June 22, 2020, and its Small Industry Non-OATS Reporters to commence reporting to the Central Repository Phase 2a Industry Member Data by December 13, 2021;

(2) its Large Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data by July 20, 2020, and its Small Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data by December 13, 2021;

(3) its Large Industry Members to commence reporting to the Central Repository Phase 2c Industry Member Data by April 26, 2021, and its Small Industry Members to commence reporting to the Central Repository Phase 2c Industry Member Data by December 13, 2021;

(4) its Large Industry Members and Small Industry Members to commence reporting to the Central Repository Phase 2d Industry Member Data by December 13, 2021; and

(5) its Large Industry Members and Small Industry Members to commence reporting to the Central Repository Phase 2e Industry Member Data by July 11, 2022.

The full scope of CAT Data required under the CAT NMS Plan will be required to be reported when all five

phases of the Phased Reporting have been implemented, subject to any applicable exemptive relief or amendments related to the CAT NMS Plan.

As a further condition to the exemption, each Participant proposes to implement the testing timelines described in Section F below through its Compliance Rule by requiring the following:

(1) Industry Member file submission and data integrity testing for Phases 2a and 2b begins in December 2019.

(2) Industry Member testing of the Reporter Portal, including data integrity error correction tools and data submissions, begins in February 2020.

(3) The Industry Member test environment will be open with intra-firm linkage validations to Industry Members for both Phases 2a and 2b in April 2020.

(4) The Industry Member test environment will be open to Industry Members with inter-firm linkage validations for both Phases 2a and 2b in July 2020.

(5) The Industry Member test environment will be open to Industry Members with Phase 2c functionality (full representative order linkages) in January 2021.

(6) The Industry Member test environment will be open to Industry Members with Phase 2d functionality (manual options orders, complex options orders, and options allocations) in June 2021.

(7) Participant exchanges that support options market making quoting will begin accepting Quote Sent Time on quotes from Industry Members no later than April 2020.

(8) The Industry Member test environment (customer and account information) will be open to Industry Members in January 2022.

As a result, the Exchange proposes to amend its Compliance Rule to be consistent with the exemptive relief to implement Phased Reporting as described below.

A. Phase 2a

In the first phase of Phased Reporting, referred to as Phase 2a, Large Industry Members and Small Industry OATS Reporters would be required to report to the Central Repository “Phase 2a Industry Member Data” by June 22, 2020.¹² To implement the Phased

⁹ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Industry Member Reporting Dates (Feb. 19, 2020).

¹⁰ See Section 1.1 of the CAT NMS Plan.

¹¹ See Securities Exchange Act Release No. 88702 (April 20, 2020), 85 FR 23075 (April 24, 2020). As discussed in the SEC’s exemptive order, the Commission granted the Participants conditional exemptive relief from the CAT NMS Plan so that the Compliance Rules may require Phase 2a reporting to commence on June 22, 2020, rather than the April 20, 2020 date set forth in the exemptive request, and Phase 2b reporting to commence on July 20, 2020, rather than the May 18, 2020 date set forth in the exemptive request. As a condition to the exemptive relief, Industry Members who elect to report to the CAT prior to such dates will be permitted to report to the CAT as early as April 20, 2020 for Phase 2a reporting and as early as May 18, 2020 for Phase 2b reporting.

¹² Small Industry Members that are not required to record and report information to FINRA’s OATS pursuant to applicable SRO rules (“Small Industry Non-OATS Reporters”) would be required to report to the Central Repository “Phase 2a Industry Member Data” by December 13, 2021, which is

Reporting for Phase 2a, the Exchange proposes to add paragraph (t)(1) of Rule 4.5 (previously paragraph (s)) and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Reporting in Phase 2a

To implement the Phased Reporting with respect to Phase 2a, the Exchange proposes to add a definition of “Phase 2a Industry Member Data” as paragraph (t)(1) of Rule 4.5. Specifically, the Exchange proposes to define the term “Phase 2a Industry Member Data” as “Industry Member Data required to be reported to the Central Repository commencing in Phase 2a.” Phase 2a Industry Member Data would include Industry Member Data solely related to Eligible Securities that are equities. While the following summarizes categories of Industry Member Data required for Phase 2a, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2a.¹³

Phase 2a Industry Member Data would include all events and scenarios covered by OATS. FINRA Rule 7440 describes the OATS requirements for recording information, which includes information related to the receipt or origination of orders, order transmittal, and order modifications, cancellations and executions. Large Industry Members and Small Industry OATS Reporters would be required to submit data to the CAT for these same events and scenarios during Phase 2a. The inclusion of all OATS events and scenarios in the CAT is intended to facilitate the retirement of OATS.

Phase 2a Industry Member Data also would include Reportable Events for:

- Proprietary orders, including market maker orders, for Eligible Securities that are equities;
- electronic quotes in listed equity Eligible Securities (*i.e.*, NMS stocks) sent to a national securities exchange or FINRA’s Alternative Display Facility (“ADF”);
- electronic quotes in unlisted Eligible Securities (*i.e.*, OTC Equity Securities) received by an Industry Member operating an interdealer quotation system (“IDQS”); and
- electronic quotes in unlisted Eligible Securities sent to an IDQS or other quotation system not operated by a Participant or Industry Member.

approximately seventeen months after Large Industry Members and Small Industry OATS Reporters begin reporting.

¹³ The items required to be reported commencing in Phase 2a do not include the items required to be reported in Phase 2c or Phase 2d, as discussed below.

Phase 2a Industry Member Data would include Firm Designated IDs. During Phase 2a, Industry Members would be required to report Firm Designated IDs to the CAT, as required by paragraphs (a)(1)(A)(1), and (a)(2)(C) of Rule 4.7. Paragraph (a)(1)(A)(1) of Rule 4.7 requires Industry Members to submit the Firm Designated ID for the original receipt or origination of an order. Paragraph (a)(2)(C) of Rule 4.7 requires Industry Members to record and report to the Central Repository, for original receipt and origination of an order, the Firm Designated ID if the order is executed, in whole or in part.

In Phase 2a, Industry Members would be required to report all street side representative orders, including both agency and proprietary orders and mark such orders as representative orders, except in certain limited exceptions as described in the Industry Member Technical Specifications. A representative order is an order originated in a firm owned or controlled account, including principal, agency average price and omnibus accounts, by an Industry Member for the purpose of working one or more customer or client orders.

In Phase 2a, Industry Members would be required to report the link between the street side representative order and the order being represented when: (1) The representative order was originated specifically to represent a single order received either from a customer or another broker-dealer; and (2) there is (a) an existing direct electronic link in the Industry Member’s system between the order being represented and the representative order and (b) any resulting executions are immediately and automatically applied to the represented order in the Industry Member’s system.

Phase 2a Industry Member Data also would include the manual and Electronic Capture Time for Manual Order Events. Specifically, for each Reportable Event in Rule 4.7, Industry Members would be required to provide a timestamp pursuant to Rule 4.10. Rule 4.10(b)(1) states that

Each Industry Member may record and report: Manual Order Events to the Central Repository in increments up to and including one second, provided that each Industry Member shall record and report the time when a Manual Order Event has been captured electronically in an order handling and execution system of such Industry Member (“Electronic Capture Time”) in milliseconds.

Accordingly, for Phase 2a, Industry Members would be required to provide

both the manual and Electronic Capture Time for Manual Order Events.¹⁴

Industry Members would be required to report special handling instructions for the original receipt or origination of an order during Phase 2a. In addition, during Phase 2a, Industry Members will be required to report, when routing an order, whether the order was routed as an intermarket sweep order (“ISO”). Industry Members would be required to report special handling instructions on routes other than ISOs in Phase 2c, rather than Phase 2a.

In Phase 2a, Industry Members would not be required to report modifications of a previously routed order in certain limited instances. Specifically, if a trader or trading software modifies a previously routed order, the routing firm is not required to report the modification of an order route if the destination to which the order was routed is a CAT Reporter that is required to report the corresponding order activity. If, however, the order was modified by a Customer or other non-CAT Reporter, and subsequently the routing Industry Members sends a modification to the destination to which the order was originally routed, then the routing Industry Member must report the modification of the order route.¹⁵ In addition, in Phase 2a, Industry Members would not be required to report a cancellation of an order received from a Customer after the order has been executed.

(ii) Timing of Phase 2a Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2a for Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(A) of Rule 4.16, which would state, in relevant part, that “Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: (A) Phase 2a Industry Member Data by June 22, 2020.”

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT

¹⁴ Industry Members would be required to provide an Electronic Capture Time following the manual capture time only for new orders that are Manual Order Events and, in certain instances, routes that are Manual Order Events. The Electronic Capture Time would not be required for other Manual Order Events.

¹⁵ This approach is comparable to the approach set forth in OATS Compliance FAQ 35.

by November 15, 2019. To implement the Phased Reporting for Phase 2a for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 4.16 with new paragraphs (c)(2)(A) and (B) of Rule 4.16. Proposed paragraph (c)(2)(A) of Rule 4.16 would state that

Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: (A) Small Industry Members that are required to record or report information to FINRA's Order Audit Trail System pursuant to applicable SRO rules ("Small Industry OATS Reporter") to report to the Central Repository Phase 2a Industry Member Data by June 22, 2020.

Proposed paragraph (c)(2)(B) of Rule 4.16 would state that "Small Industry Members that are not required to record or report information to FINRA's Order Audit Trail System pursuant to applicable SRO rules ("Small Industry Non-OATS Reporter") to report to the Central Repository Phase 2a Industry Member Data by December 13, 2021."

B. Phase 2b

In the second phase of the Phased Reporting, referred to as Phase 2b, Large Industry Members would be required to report to the Central Repository "Phase 2b Industry Member Data" by July 20, 2020. Small Industry Members would be required to report to the Central Repository "Phase 2b Industry Member Data" by December 13, 2021, which is approximately seventeen months after Large Industry Members begin reporting such data to the Central Repository. To implement the Phased Reporting for Phase 2b, the Exchange proposes to add paragraph (t)(2) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2b Reporting

To implement the Phased Reporting with respect to Phase 2b, the Exchange proposes to add a definition of "Phase 2b Industry Member Data" as paragraph (t)(2) to Rule 4.5. Specifically, the Exchange proposes to define the term "Phase 2b Industry Member Data" as "Industry Member Data required to be reported to the Central Repository commencing in Phase 2b." Phase 2b Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2b. While the following summarizes the categories of Industry Member Data required for Phase 2b, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2b.

Phase 2b Industry Member Data would include Industry Member Data

related to Eligible Securities that are options and related to simple electronic option orders, excluding electronic paired option orders.¹⁶ A simple electronic option order is an order to buy or sell a single option that is not related to or dependent on any other transaction for pricing and timing of execution that is either received or routed electronically by an Industry Member. Electronic receipt of an order is defined as the initial receipt of an order by an Industry Member in electronic form in standard format directly into an order handling or execution system. Electronic routing of an order is the routing of an order via electronic medium in standard format from one Industry Member's order handling or execution system to an exchange or another Industry Member. An electronic paired option order is an electronic option order that contains both the buy and sell side that is routed to another Industry Member or exchange for crossing and/or price improvement as a single transaction on an exchange. Responses to auctions of simple orders and paired simple orders are also reportable in Phase 2b.

Furthermore, combined orders in options would be treated in Phase 2b in the same way as equity representative orders are treated in Phase 2a. A combined order would mean, as permitted by Exchange rules, a single, simple order in Listed Options created by combining individual, simple orders in Listed Options from a customer with the same exchange origin code before routing to an exchange. During Phase 2b, the single combined order sent to an exchange must be reported and marked as a combined order, but the linkage to the underlying orders is not required to be reported until Phase 2d.

(ii) Timing of Phase 2b Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2b for Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(B) of Rule 4.16, which would state, in relevant part, that "Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (B) Phase 2b Industry Member Data by July 20, 2020."

¹⁶ The items required to be reported in Phase 2b do not include the items required to be reported in Phase 2d, as discussed below in Section A.4.

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2b for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that "Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Small Industry Members to report to the Central Repository Phase 2b Industry Member Data . . . by December 13, 2021."

C. Phase 2c

In the third phase of the Phased Reporting, referred to as Phase 2c, Large Industry Members would be required to report to the Central Repository "Phase 2c Industry Member Data" by April 26, 2021. Small Industry Members would be required to report to the Central Repository "Phase 2c Industry Member Data" by December 13, 2021, which is approximately seven months after Large Industry Members begin reporting such data to the Central Repository. To implement the Phased Reporting for Phase 2c, the Exchange proposes to add paragraph (t)(3) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2c Reporting

To implement the Phased Reporting with respect to Phase 2c, the Exchange proposes to add a definition of "Phase 2c Industry Member Data" as paragraph (t)(3) to Rule 4.5. Specifically, the Exchange proposes to define the term "Phase 2c Industry Member Data" as "Industry Member Data required to be reported to the Central Repository commencing in Phase 2c." Phase 2c Industry Member Data would be Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data, Phase 2d Industry Member Data or Phase 2e Industry Member Data. Phase 2c Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2c. While the following summarizes the categories of Industry Member Data required for Phase 2c, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2c.

Phase 2c Industry Member Data would include Industry Member Data that is related to Eligible Securities that are equities and that is related to: (1) Allocation Reports as required to be

recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (2) quotes in unlisted Eligible Securities sent to an IDQS operated by a CAT Reporter (reportable by the Industry Member sending the quotes) (except for quotes reportable in Phase 2d, as discussed below); (3) electronic quotes in listed equity Eligible Securities (*i.e.*, NMS stocks) that are not sent to a national securities exchange or FINRA's Alternative Display Facility; (4) reporting changes to client instructions regarding modifications to algorithms; (5) marking as a representative order any order originated to work a customer order in price guarantee scenarios, such as a guaranteed VWAP; (6) flagging rejected external routes to indicate a route was not accepted by the receiving destination; (7) linkage of duplicate electronic messages related to a Manual Order Event between the electronic event and the original manual route; (8) special handling instructions on order route reports (other than the ISO, which is required to be reported in Phase 2a); (9) quote identifier on trade events; (10) reporting of large trader identifiers¹⁷ ("LTID") (if applicable) for accounts with Reportable Events that are reportable to CAT as of and including Phase 2c; (11) reporting of date account opened or Account Effective Date¹⁸ (as applicable) for accounts and flag indicating the Firm Designated ID type as account or relationship; (12) order effective time for orders that are received by an Industry Member and do not become effective until a later time; (13) the modification or cancellation of an internal route of an order; and (14) linkages to the customer order(s) being represented for all representative order scenarios, including agency average price trades, net trades, aggregated orders, and disconnected Order Management System ("OMS")—Execution Management System ("EMS")

¹⁷ See definition of "Customer Account Information" in Section 1.1 of the CAT NMS Plan. See also Rule 13h-1 under the Exchange Act.

¹⁸ See definition of "Customer Account Information" and "Account Effective Date" in Section 1.1 of the CAT NMS Plan. Note that the Exchange also proposes to amend the dates in the definitions of "Account Effective Date" and "Customer Account Information" to reflect the Phased Reporting. Specifically, the Exchange proposes to amend paragraph (m)(2) of Rule 4.5 to replace the references to November 15, 2018 and 2019 with references to the commencement of Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2)–(5) of Rule 6810 regarding the definition of "Account Effective Date" with similar changes to the dates set forth therein.

scenarios, as required in the Industry Member Technical Specifications.¹⁹

Phase 2c Industry Member Data also includes electronic quotes that are provided by or received in a CAT Reporter's order/quote handling or execution systems in Eligible Securities that are equities and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: (1) An equity bid or offer is displayed publicly or has been communicated (a) for listed securities to the Alternative Display Facility (ADF) operated by FINRA; or (b) for unlisted equity securities to an "inter-dealer quotation system" as defined in FINRA Rule 6420(c); or (2) an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing; *i.e.*, no further manual or electronic action is required by the responder providing the quote in order to execute or cause a trade to be executed). With respect to OTC Equity Securities, OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter (other than such an IDQS that does not match and execute orders) are reportable by the Industry Member sending them in Phase 2c. Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.*, FIX) that meets this quote definition (*i.e.*, an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing) would be reportable in Phase 2c.

(ii) Timing of Phase 2c Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2c for Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(C) of Rule 4.16, which would state, in relevant part, that "Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C)

¹⁹ In Phase 2c, for any scenarios that involve orders originated in different systems that are not directly linked, such as a customer order originated in an OMS and represented by a principal order originated in an EMS that is not linked to the OMS, marking and linkages must be reported as required in the Industry Member Technical Specifications.

Phase 2c Industry Member Data by April 26, 2021."

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2c for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that "Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Small Industry Members to report to the Central Repository . . . Phase 2c Industry Member Data . . . by December 13, 2021."

D. Phase 2d

In the fourth phase of the Phased Reporting, referred to as Phase 2d, Large Industry Members and Small Industry Members would be required to report to the Central Repository "Phase 2d Industry Member Data" by December 13, 2021. To implement the Phased Reporting for Phase 2d, the Exchange proposes to add paragraph (t)(4) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2d Reporting

To implement the Phased Reporting with respect to Phase 2d, the Exchange proposes to add a definition of "Phase 2d Industry Member Data" as paragraph (t)(4) to Rule 6.5. Specifically, the Exchange proposes to define the term "Phase 2d Industry Member Data" as "Industry Member Data required to be reported to the Central Repository commencing in Phase 2d."²⁰

"Phase 2d Industry Member Data" is Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data, Industry Member Data that is related to Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2c Industry Member Data, and Industry Member Data other than Phase 2e Industry Member Data. Phase 2d Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2d. While the following summarizes the categories of Industry Member Data required for

²⁰ The Participants have determined that reporting information regarding the modification or cancellation of a route is necessary to create the full lifecycle of an order. Accordingly, the Participants require the reporting of information related to the modification or cancellation of a route similar to the data required for the routing of an order and modification and cancellation of an order pursuant to Sections 6.3(d)(ii) and (iv) of the CAT NMS Plan.

Phase 2d, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2d.

Phase 2d Industry Member Data includes with respect to the Eligible Securities that are options: (1) Simple manual orders; (2) electronic and manual paired orders; (3) all complex orders with linkages to all CAT-reportable legs; (4) LTIDs (if applicable) for accounts with Reportable Events for Phase 2d; (5) date account opened or Account Effective Date (as applicable) for accounts with an LTID and flag indicating the Firm Designated ID type as account or relationship for such accounts;²¹ (6) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (7) the modification or cancellation of an internal route of an order; and (8) linkage between a combined order and the original customer orders.

Phase 2d Industry Member Data also would include electronic quotes that are provided by or received in a CAT Reporter's order/quote handling or execution systems in Eligible Securities that are options and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: A listed option bid or offer which is accessible electronically by customers or other market participants and is immediately actionable (*i.e.*, no further action is required by the responder providing the quote in order to execute or cause a trade to be executed). Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.*, FIX) that meets this definition would be reportable in Phase 2d for options.

Phase 2d Industry Member Data also would include with respect to Eligible Securities that are options or equities (1) receipt time of cancellation and modification instructions through Order Cancel Request and Order Modification Request events; (2) modifications of previously routed orders in certain instances; and (3) OTC Equity Securities

quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter that does not match and execute orders. In addition, subject to any exemptive or other relief, Phase 2d Industry Member Data will include verbal or manual quotes on an exchange floor or in the over-the-counter market, where verbal quotes and manual quotes are defined as bids or offers in Eligible Securities provided verbally or that are provided or received other than via a CAT Reporter's order handling and execution system (*e.g.*, quotations provided via email or instant messaging).

(ii) Timing of Phase 2d Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2d for Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(D) of Rule 4.16, which would state, in relevant part, that “[e]ach Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (D) Phase 2d Industry Member Data by December 13, 2021.”

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2d for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that “Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Small Industry Members to report to the Central Repository . . . Phase 2d Industry Member Data by December 13, 2021.”

E. Phase 2e

In the fifth phase of Phased Reporting, referred to as Phase 2e, both Large Industry Members and Small Industry Members would be required to report to the Central Repository “Phase 2e Industry Member Data” by July 11, 2022. To implement the Phased Reporting for Phase 2e, the Exchange proposes to add paragraph (t)(5) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2e Reporting

To implement the Phased Reporting with respect to Phase 2e, the Exchange proposes to add a definition of “Phase 2e Industry Member Data” as paragraph (t)(5) of Rule 4.16. Specifically, the Exchange proposes to define the term “Phase 2e Industry Member Data” as “Industry Member Data required to be reported to the Central Repository commencing in Phase 2e. The full scope of Industry Member Data required by the CAT NMS Plan will be required to be reported to the CAT when Phase 2e has been implemented, subject to any applicable exemptive relief or amendments to the CAT NMS Plan.” LTIDs and Account Effective Date are both required to be reported in Phases 2c and 2d in certain circumstances, as discussed above. The terms “Customer Account Information” and “Customer Identifying Information” are defined in Rule 4.5 of the Compliance Rule.²² The Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2e.

(ii) Timing of Phase 2e Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2e for Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(E) of Rule 4.16, which would state, in relevant part, that “[e]ach Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (E) Phase 2e Industry Member Data by July 11, 2022.”

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement

²¹ As noted above, the Exchange also proposes to amend the dates in the definitions of “Account Effective Date” and “Customer Account Information” to reflect the Phased Reporting. Specifically, the Exchange proposes to amend paragraph (m)(2) of Rule 6.5 to replace the references to November 15, 2018 and 2019 with references to the commencement of Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2)–(5) of Rule 6.810 regarding the definition of “Account Effective Date” with similar changes to the dates set forth therein.

²² The term “Customer Account Information” includes account numbers, and the term “Customer Identifying Information” includes, with respect to individuals, dates of birth and SSNs. *See* Rule 4.5. The Participants have received exemptive relief from the requirements for the Participants to require their members to provide dates of birth, account numbers and social security numbers for individuals to the CAT. *See* Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020). *See also* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Jan. 29, 2020). Given the relief has been granted, Phase 2e Industry Member Data will not include account numbers, dates of birth and SSNs for individuals.

the Phased Reporting for Phase 2e for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(D) of Rule 4.16, which would state, in relevant part, that “[e]ach Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (E) Small Industry Members to report to the Central Repository Phase 2e Industry Member Data by July 11, 2022.”

F. Industry Member Testing Requirements

Rule 4.13(a) sets forth various compliance dates for the testing and development for connectivity, acceptance and the submission order data. In light of the intent to shift to Phased Reporting in place of the two specified dates for the commencement of reporting for Large and Small Industry Members, the Exchange correspondingly proposes to replace the Industry Member development testing milestones in Rule 6880(a) with the testing milestones set forth in the exemptive relief. Specifically, the Exchange proposes to replace Rule 6880(a) with the following:

- (1) Industry Member file submission and data integrity testing for Phases 2a and 2b shall begin in December 2019.
- (2) Industry Member testing of the Reporter Portal, including data integrity error correction tools and data submissions, shall begin in February 2020.
- (3) The Industry Member test environment shall open with intra-firm linkage validations to Industry Members for both Phases 2a and 2b in April 2020.
- (4) The Industry Member test environment shall open to Industry Members with inter-firm linkage validations for both Phases 2a and 2b in July 2020.
- (5) The Industry Member test environment shall open to Industry Members with Phase 2c functionality (full representative order linkages) in January 2021.
- (6) The Industry Member test environment shall open to Industry Members with Phase 2d functionality (manual options orders, complex options orders, and options allocations) in June 2021.
- (7) Participant exchanges that support options market making quoting shall begin accepting Quote Sent Time on quotes from Industry Members no later than April 2020.
- (8) The Industry Member test environment (customer and account information) will be open to Industry Members in January 2022.

iv. Granularity of Timestamps

On February 3, 2020, the Participants filed with the Commission a request for exemptive relief from the requirement in Section 6.8(b) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require that, to the

extent that its Industry Members utilize timestamps in increments finer than nanoseconds in their order handling or execution systems, such Industry Members utilize such finer increment when reporting CAT Data to the Central Repository.²³ On April 8, 2020, the Participants received the exemptive relief.²⁴ As a condition to this exemption, the Participants, through their Compliance Rules, will require Industry Members that capture timestamps in increments more granular than nanoseconds to truncate the timestamps, after the nanosecond level for submission to CAT, not round up or down in such circumstances. The timestamp granularity exemption remains in effect for five years, until April 8, 2025. After five years, the exemption would no longer be in effect unless the period the exemption is in effect is extended by the SEC.

Accordingly, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief. Specifically, the Exchange proposes to amend paragraph (a)(2) of Rule 4.10. Rule 4.10(a)(2) states that

Subject to paragraph (b), to the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, such Industry Member shall record and report Industry Member Data to the Central Repository with time stamps in such finer increment.

The Exchange proposes to amend this provision to read as follows to reflect the exemptive relief:

Subject to paragraph (b), to the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, such Industry Member shall record and report Industry Member Data to the Central Repository with time stamps in such finer increment up to nanoseconds; provided, that Industry Members that capture timestamps in increments more granular than nanoseconds must truncate the timestamps after the nanosecond level for submission to CAT, rather than rounding such timestamps up or down, until April 8, 2025.

v. Introducing Industry Members

On February 3, 2020, the Participants requested that the Commission exempt broker-dealers that do not qualify as Small Industry Members solely because

they satisfy Rule 0–10(i)(2) under the Exchange Act and, as a result, are deemed affiliated with an entity that is not a small business or small organization (“Introducing Industry Member”) from the requirements in the CAT NMS Plan applicable to Industry Members other than Small Industry Members (“Large Industry Members”).²⁵ Instead, such Introducing Industry Members would comply with the requirements in the CAT NMS Plan applicable to Small Industry Members. On April 20, 2020, the SEC granted the Participants exemptive relief with regard to Introducing Industry Members.²⁶

As a result, the Exchange proposes to amend its Compliance Rule to adopt a definition of “Introducing Industry Member” and to revise Rule 4.16 to require Introducing Industry Members to comply with the requirements of the CAT NMS Plan applicable to Small Industry Members. Specifically, the Exchange proposes to define “Introducing Industry Member” in proposed paragraph (v) to Rule 4.5, as “a broker-dealer that does not qualify as a Small Industry Member solely because such broker-dealer satisfies Rule 0–10(i)(2) under the Exchange Act in that it introduces transactions on a fully disclosed basis to clearing firms that are not small businesses or small organizations.” The Exchange also proposes to add a new paragraph (3) to Rule 4.16(c) to state that “Introducing Industry Members must comply with the requirements of the CAT NMS Plan applicable to Small Industry Members.” With these changes, Introducing Industry Members would be required to comply with the requirements in the CAT NMS Plan applicable to Small Industry Members, rather than the requirements in the CAT NMS Plan applicable to Large Industry Members.

vi. CCID/PII

On January 29, 2020, the Participants filed with the Commission a request for exemptive relief from certain requirements related to reporting SSNs, dates of birth and account numbers to the CAT.²⁷ The Commission,

²⁵ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Small Industry Members (Feb. 3, 2020).

²⁶ See Securities Exchange Act Release No. 88703 (April 20, 2020), 85 FR 23115 (April 24, 2020).

²⁷ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Jan. 29, 2020).

²³ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Granularity of Timestamps and Relationship Identifiers (Feb. 3, 2020).

²⁴ See Securities Exchange Act Release No. 88608 (April 8, 2020), 85 FR 20743 (April 14, 2020).

Participants and others indicated security concerns with maintaining such sensitive Customer information in the CAT. On March 17, 2020, the Participants received the exemptive relief, subject to certain conditions.²⁸ Assuming the Participants comply with the conditions set forth in the PII Exemption Order, Industry Members would not be required to report SSNs, dates of birth and account numbers to the CAT NMS Plan.

As described in the request for exemptive relief, the Participants requested exemptive relief to allow for an alternative approach to generating a CAT Customer ID (“CCID”) without requiring Industry Members to report SSNs to the CAT (the “CCID Alternative”). In lieu of retaining such SSNs in the CAT, the Participants would use the CCID Alternative, a strategy developed by the Chief Information Security Officer for the CAT and the Chief Information Security Officers from each of the Participants, in consultation with security experts from member firms of Securities Industry and Financial Markets Association. The CCID Alternative facilitates the ability of the Plan Processor to generate a CCID without requiring the Plan Processor to receive SSNs or store SSNs within the CAT. Under the CCID Alternative, the Plan Processor would generate a unique CCID using a two-phase transformation process that avoids having SSNs reported to or stored in the CAT. In the first transformation phase, a CAT Reporter would transform the SSN to an interim value (the “transformed value”). This transformed value, and not the SSN, would be submitted to a separate system within the CAT (“CCID Subsystem”). The CCID Subsystem would then perform a second transformation to create the globally unique CCID for each Customer that is unknown to, and not shared with, the original CAT Reporter. The CCID would then be sent to the customer and account information system of the CAT, where it would be linked with the other customer and account information. The CCID may then be used by the Participants’ regulatory staff and the SEC in queries and analysis of CAT

Data. To implement the CCID Alternative, the Participants requested exemptive relief from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan to require, through their Compliance Rules, Industry Members to record and report SSNs to the Central Repository for the original receipt of an order. As set forth in one condition of the PII Exemption Order, Industry Members would be required to transform an SSN to an interim value, and report the transformed value to the CAT.

The Participants also requested exemptive relief to allow for an alternative approach which would exempt the reporting of dates of birth and account numbers²⁹ to the CAT (“Modified PII Approach”), and instead would require Industry Members to report the year of birth and the Firm Designated ID for each trading account associated with the Customers. To implement the Modified PII Approach, the Participants requested exemptive relief from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan to require, through their Compliance Rules, Industry Members to record and report to the Central Repository for the original receipt of an order dates of birth and account numbers for Customers. As conditions to the exemption, Industry Members would be required to report the year of birth of an individual to the Central Repository, and to report the Firm Designated ID to the Central Repository.

To implement the request for exemptive relief and to eliminate the requirement to report SSNs, date of birth and account numbers to the CAT, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief. Rule 4.7(a)(2)(C) states that

[s]ubject to paragraph (3) below, each Industry Member shall record and report to the Central Repository the following, as applicable (“Received Industry Member Data” and collectively with the information referred to in Rule 6830(a)(1) “Industry Member Data”)) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan: . . . (C) for original receipt or origination of an order, the Firm Designated ID for the relevant Customer, and in accordance with Rule 6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

Similarly, Rule 4.8 requires the reporting of Customer Account

Information and Customer Identifying Information to the Central Repository. Currently, Rule 4.5(m) defines “Customer Identifying Information” to include, with respect to individuals, “date of birth” and “individual tax payer identification number (“ITIN”)/social security number (“SSN”).” Accordingly, the Exchange proposes to replace “date of birth” in the definition of “Customer Identifying Information” in Rule 4.5(m) (now renumbered Rule 4.5(n)) with “year of birth” and to delete “individual tax payer identification number (“ITIN”)/social security number (“SSN”)” from Rule 6810(m) (now renumbered Rule 6810(n)). In addition, currently, Rule 4.5(l) defines “Customer Account Information” to include account numbers. The Exchange proposes to delete “account number” from the definition of “Customer Account Information” in Rule 4.5(l) (now renumbered Rule 6810(m)).

The Exchange also proposes to add a definition of the term “Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”)” to Rule 4.5. Specifically, the Exchange proposes to add paragraph (pp) to Rule 4.5 to define “Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”)” to mean “the interim value created by an Industry Member based on a Customer ITIN/SSN.”

The Exchange proposes to revise Rule 4.7(a)(2)(C) to include the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”). Specifically, the Exchange proposes to revise Rule 6830(a)(2)(C) to state:

[s]ubject to paragraph (3) below, each Industry Member shall record and report to the Central Repository the following, as applicable (“Received Industry Member Data” and collectively with the information referred to in Rule 6830(a)(1) “Industry Member Data”)) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan: . . . (C) for original receipt or origination of an order, the Firm Designated ID for the relevant Customer, Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”), and in accordance with Rule 6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

The Exchange also proposes to include the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) in the Customer information reporting required under Rule 4.8. Specifically, the Exchange proposes to revise Rule 4.8(a) to require each Industry Member to submit to the

²⁸ See Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020) (Order Granting Conditional Exemptive Relief, Pursuant to Section 36 and Rule 608(e) of the Securities Exchange Act of 1934, from Section 6.4(d)(ii)(C) and Appendix D Sections 4.1.6, 6.2, 8.1.1, 8.2, 9.1, 9.2, 9.4, 10.1, and 10.3 of the National Market System Plan Governing the Consolidated Audit Trail) (“PII Exemption Order”). The PII Exemption Order lists several conditions that must be met by the Exchange. If the Exchange does not satisfy the conditions, the PII Exemption Order would not apply to the Exchange.

²⁹ With respect to this aspect of the requested relief, the PII Exemption Order provided relief with regard to the reporting of all account numbers, not just account numbers for individuals as requested by the Participants.

Central Repository the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”), for each of its Customers with an Active Account prior to such Industry Member’s commencement of reporting to the Central Repository and in accordance with the deadlines set forth in Rule 6880. The Exchange also proposes to revise Rule 4.8(b) to require each Industry Member to submit to the Central Repository any updates, additions or other changes to the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) for each of its Customers with an Active Account on a daily basis. In addition, the Exchange proposes to revise Rule 4.8(c) to require, on a periodic basis as designated by the Plan Processor and approved by the Operating Committee, each Industry Member to submit to the Central Repository a complete set of the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) for each of its Customers with an Active Account. The Exchange also proposes to revise Rule 4.8(d) to require, for each Industry Member for which errors in the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) for each of its Customers with an Active Account submitted to the Central Repository have been identified by the Plan Processor or otherwise, such Industry Member to submit corrected data to the Central Repository by 5:00 p.m. Eastern Time on T+3.

Paragraph (1)(B) of Rule 4.5(m), the definition of “Customer Account Information” states that “in those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution, the Industry Member will” . . . “provide the relationship identifier in lieu of the “account number.” As an account number will no longer be an element in “Customer Account Information,” the relationship identifier used in lieu of the account number will no longer be required as an element of Customer Account Information. Therefore, the Exchange proposes to delete the requirement set forth in Rule 6810(m)(a)(B) regarding relationship identifiers from Rule 4.5(m).

With these changes, Industry Members would not be required to report to the Central Repository dates of birth, SSNs or account numbers pursuant to Rule 4.7(a)(2)(C). However, Industry Members would be required to report the Transformed Value for

individual tax payer identification number (“ITIN”)/social security number (“SSN”) and the year of birth to the Central Repository.³⁰

vii. FINRA Facility Data Linkage

On June 5, 2020, the Participants filed with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to allow for an alternative approach to the reporting of clearing numbers and cancelled trade indicators.³¹ The SEC provided this exemptive relief on June 11, 2020.³² FINRA is required to report to the Central Repository data collected by FINRA’s Trade Reporting Facilities, FINRA’s OTC Reporting Facility or FINRA’s Alternative Display Facility (collectively, “FINRA Facility”) pursuant to applicable SRO rules (“FINRA Facility Data”). Included in this FINRA Facility Data is the clearing number of the clearing broker for a reported trade as well as the cancelled trade indicator. Under this alternative approach, the clearing number and the cancelled trade indicator of the FINRA Facility Data that is reported to the CAT would be linked to the related execution reports reported by Industry Members. To implement this approach in a phased manner, the Participants received exemptive relief from the requirement in Sections 6.4(d)(ii)(A)(2) and (B) of the CAT NMS Plan to require, through their Compliance Rules, that Industry Members record and report to the Central Repository: (1) If the order is executed, in whole or in part, the SRO-Assigned Market Participant Identifier of the clearing broker, if applicable; and (2) if the trade is cancelled, a cancelled trade indicator, subject to certain conditions.

As a condition to this exemption, the Participants would continue to require Industry Members to submit a trade report for a trade, and, if the trade is cancelled, a cancellation, to a FINRA Facility pursuant to applicable SRO rules, and to report the corresponding execution to the Central Repository. In addition, Industry Members would be required to report to the Central Repository the unique trade identifier reported to a FINRA Facility with the

corresponding trade report. Furthermore, if an Industry Member does not submit a cancellation to a FINRA Facility, or is unable to provide a link between the execution reported to the Central Repository and the related FINRA Facility trade report, then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator and cancelled trade timestamp if the trade is cancelled. Similarly, if an Industry Member does not submit the clearing number of the clearing broker to a FINRA Facility for a trade, or is unable to provide a link between the execution reported to the Central Repository and the related FINRA Facility trade report, then the Industry Member would be required to record and report to the Central Repository the clearing number as well as contra party information.

As a result, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief to implement this alternative approach. Specifically, the Exchange proposes to require Industry Members to report to the CAT with an execution report the unique trade identifier reported to a FINRA facility with the corresponding trade report. For example, the unique trade identifier for the OTC Reporting Facility and the Alternative Display Facility would be the Compliance ID, for the FINRA/Nasdaq Trade Reporting Facility, it would be the Branch Sequence Number, and for the FINRA/NYSE Trade Reporting Facility, it would be the FINRA Compliance Number. This unique trade identifier would be used to link the FINRA Facility Data with the execution report in the CAT. Specifically, the Exchange proposes to add new paragraph (a)(2)(E) to Rule 4.7, which states that:

(E) If an Industry Member is required to submit and submits a trade report for a trade, and, if the trade is cancelled, a cancellation, to one of FINRA’s Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, and the Industry Member is required to report the corresponding execution and/or cancellation to the Central Repository:

(1) the Industry Member is required to report to the Central Repository trade identifier reported by the Industry Member to such FINRA facility for the trade when the Industry Member reports the execution of an order pursuant to Rule 4.7(a)(1)(E) or cancellation of an order pursuant to Rule 4.7(a)(1)(D) beginning June 22, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters, and such trade identifier must be unique

³⁰ The Exchange anticipates that the Compliance Rule may be further amended when further details regarding the CCID Alternative are finalized.

³¹ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to FINRA Facility Data Linkage (June 5, 2020).

³² See Securities Exchange Act Release No. 89051 (June 11, 2020) (**Federal Register** publication pending).

beginning October 26, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters.

The Exchange also proposes to relieve Industry Members of the obligation to report to the CAT data related to clearing brokers and trade cancellations pursuant to Rules 4.7(a)(2)(A)(2) and (B), respectively, as this data will be reported by FINRA to the CAT, except in certain circumstances. Accordingly, the Exchange proposes new paragraphs (a)(2)(E)(2) and (3) to Rule 4.7, which would state:

(2) if the order is executed in whole or in part, and the Industry Member submits the trade report to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, the Industry Member is not required to submit the SRO-Assigned Market Participant Identifier of the clearing broker pursuant to Rule 4.7(a)(2)(A)(2); provided, however, if the Industry Member does not report the clearing number of the clearing broker to such FINRA facility for a trade, or does not report the unique trade identifier to the Central Repository as required by Rule 4.7(a)(2)(E)(1), then the Industry Member would be required to record and report to the Central Repository the clearing number of the clearing broker as well as information about the contra party to the trade beginning April 26, 2021 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters; and

(3) if the trade is cancelled and the Industry Member submits the cancellation to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, the Industry Member is not required to submit the cancelled trade indicator pursuant to Rule 4.7(a)(2)(B); provided, however, if the Industry Member does not report a cancellation for a canceled trade to such FINRA facility, or does not report the unique trade identifier as required by 4.7(a)(2)(E)(1), then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator as well as a cancelled trade timestamp beginning June 22, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters.

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. Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) 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) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that this proposal is consistent with the Act because it is consistent with certain exemptions from the CAT NMS Plan, because it facilitates the retirement of certain existing regulatory systems, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan "is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act."³³ To the extent that this proposal implements the Plan, including the exemptive relief, and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule changes are consistent with certain exemptions from the CAT NMS Plan, facilitate the retirement of certain existing regulatory systems, and are designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. The Exchange also notes that the amendments to the Compliance Rules will apply equally to all Industry Members that trade NMS Securities and OTC Equity Securities. In addition, all national securities exchanges and FINRA are proposing these amendments to their Compliance

Rules. Therefore, this is not a competitive rule filing, and, therefore, it does not impose a 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 foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act³⁴ and subparagraph (f)(6) of Rule 19b-4 thereunder.³⁵

A proposed rule change filed under Rule 19b-4(f)(6)³⁶ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),³⁷ 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 by June 22, 2020. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it implements exemptive relief from the CAT NMS Plan granted by the Commission and facilitates the start of Industry Member reporting on June 22, 2020. In addition, as noted by the Exchange, the proposed rule change is based on a filing recently approved by the Commission.³⁸ Accordingly, the Commission waives the 30-day operative delay and

³⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

³⁵ 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 the 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.

³⁶ 17 CFR 240.19b-4(f)(6).

³⁷ 17 CFR 240.19b-4(f)(6)(iii).

³⁸ See Securities Exchange Act Release No. 89108 (June 19, 2020).

³³ See Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696, 84697 (November 23, 2016).

designates the proposed rule change operative as of June 22, 2020.³⁹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeBYX-2020-019 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to File Number SR-CboeBYX-2020-019. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of

10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeBYX-2020-019 and should be submitted on or before July 20, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁰

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020-13880 Filed 6-26-20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89127; File No. SR-NYSEArca-2020-51]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 2, Relating to the Listing and Trading of the Shares of Natixis Vaughan Nelson Select ETF and Natixis Vaughan Nelson MidCap ETF Under Proposed NYSE Arca Rule 8.601-E

June 23, 2020.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act")² and Rule 19b-4 thereunder,³ notice is hereby given that on June 12, 2020, NYSE Arca, Inc. ("NYSE Arca" or 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. On June 17, 2020, the Exchange filed Amendment No. 1 to the proposed rule change, which superseded and replaced the proposed rule change in its entirety. On June 19, 2020, the Exchange filed Amendment No. 2 to the proposed rule change, which superseded and replaced the proposed rule change, as modified by Amendment No. 1, in its entirety. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by

Amendment No. 2, 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 proposed NYSE Arca Rule 8.601-E: Natixis Vaughan Nelson Select ETF and Natixis Vaughan Nelson MidCap ETF. This Amendment No. 2 to SR-NYSEArca-2020-51 replaces SR-NYSEArca-2020-51 as originally filed and Amendment 1 thereto and supersedes such filings in their entirety. The proposed change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has proposed to add new NYSE Arca Rule 8.601-E for the purpose of permitting the listing and trading, or trading pursuant to unlisted trading privileges ("UTP"), of Active Proxy Portfolio Shares, which are securities issued by an actively managed open-end investment management company.⁴ Proposed Commentary .01 to

⁴ See Amendment 6 to SR-NYSEArca-2019-95, filed on June 19, 2020. See also, Securities Exchange Act Release No. 87866 (December 30, 2019), 85 FR 357 (January 3, 2020) (SR-NYSEArca-2019-95). Proposed Rule 8.601-E(c)(1) provides that "[t]he term 'Active Proxy Portfolio Share' means a security that (a) is issued by a investment company registered under the Investment Company Act of 1940 ('Investment Company') organized as an open-end management investment company that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a specified minimum number of shares, or multiples thereof, in return for a deposit by the purchaser of the Proxy Portfolio and/or cash with a value equal to the next determined net asset value

³⁹ 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).

⁴⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

Rule 8.601–E would require the Exchange to file separate proposals under Section 19(b) of the Act before listing and trading any series of Active Proxy Portfolio Shares on the Exchange. Therefore, the Exchange is submitting this proposal in order to list and trade shares (“Shares”) of Active Proxy Portfolio Shares of the Natixis Vaughan Nelson Select ETF and Natixis Vaughan Nelson MidCap ETF (each a “Fund” and, collectively, the “Funds”) under proposed Rule 8.601–E.

Key Features of Active Proxy Portfolio Shares

While funds issuing Active Proxy Portfolio Shares will be actively-managed and, to that extent, will be similar to Managed Fund Shares, Active Proxy Portfolio Shares differ from Managed Fund Shares in the following important respects. First, in contrast to Managed Fund Shares, which are actively-managed funds listed and traded under NYSE Arca Rule 8.600–E⁵ and for which a “Disclosed Portfolio” is required to be disseminated at least

once daily,⁶ the portfolio for an issue of Active Proxy Portfolio Shares will be publicly disclosed within at least 60 days following the end of every fiscal quarter in accordance with normal disclosure requirements otherwise applicable to open-end management investment companies registered under the 1940 Act.⁷ The composition of the portfolio of an issue of Active Proxy Portfolio Shares would not be available at commencement of Exchange listing and trading. Second, in connection with the creation and redemption of Active Proxy Portfolio Shares, such creation or redemption may be exchanged for a Proxy Portfolio with a value equal to the next-determined NAV. A series of Active Proxy Portfolio Shares will disclose the Proxy Portfolio on a daily basis, which, as described above, is designed to track closely the daily performance of the Actual Portfolio of a series of Active Proxy Portfolio Shares, instead of the actual holdings of the Investment Company, as provided by a series of Managed Fund Shares.

The Exchange, after consulting with various Lead Market Makers (“LMMs”) that trade exchange-traded funds (“ETFs”) on the Exchange, believes that market makers will be able to make efficient and liquid markets priced near the ETF’s intraday value, and market makers employ market making techniques such as “statistical arbitrage,” including correlation hedging, beta hedging, and dispersion trading, which is currently used

throughout the financial services industry, to make efficient markets in exchange-traded products.⁹ For Active Proxy Portfolio Shares, market makers may use the knowledge of a fund’s means of achieving its investment objective, as described in the applicable fund registration statement, as well as a fund’s disclosed Proxy Portfolio, to construct a hedging proxy for a fund to manage a market maker’s quoting risk in connection with trading fund shares. Market makers can then conduct statistical arbitrage between their hedging proxy (for example, the Russell 1000 Index) and shares of a fund, buying and selling one against the other over the course of the trading day. This ability should permit market makers to make efficient markets in an issue of Active Proxy Portfolio Shares without precise knowledge of a fund’s underlying portfolio. This is similar to certain other existing exchange-traded products (for example, ETFs that invest in foreign securities that do not trade during U.S. trading hours), in which spreads may be generally wider in the early days of trading and then narrow as market makers gain more confidence in their real-time hedges.

Description of the Funds and the Trust

Each Fund will be a series of Natixis ETF Trust II (“Trust”), which will be registered with the Commission as an open-end management investment company.¹⁰

⁹ Statistical arbitrage enables a trader to construct an accurate proxy for another instrument, allowing it to hedge the other instrument or buy or sell the instrument when it is cheap or expensive in relation to the proxy. Statistical analysis permits traders to discover correlations based purely on trading data without regard to other fundamental drivers. These correlations are a function of differentials, over time, between one instrument or group of instruments and one or more other instruments. Once the nature of these price deviations have been quantified, a universe of securities is searched in an effort to, in the case of a hedging strategy, minimize the differential. Once a suitable hedging proxy has been identified, a trader can minimize portfolio risk by executing the hedging basket. The trader then can monitor the performance of this hedge throughout the trade period making corrections where warranted. In the case of correlation hedging, the analysis seeks to find a proxy that matches the pricing behavior of a fund. In the case of beta hedging, the analysis seeks to determine the relationship between the price movement over time of a fund and that of another stock. Dispersion trading is a hedged strategy designed to take advantage of relative value differences in implied volatilities between an index and the component stocks of that index. Such trading strategies will allow market participants to engage in arbitrage between series of Active Proxy Portfolio Shares and other instruments, both through the creation and redemption process and strictly through arbitrage without such processes.

¹⁰ The Trust is registered under the 1940 Act. On April 24, 2020, the Trust filed a registration statement on Form N–1A under the Securities Act

(“NAV”); (c) when aggregated in the same specified minimum number of Active Proxy Portfolio Shares, or multiples thereof, may be redeemed at a holder’s request in return for the Proxy Portfolio and/or cash to the holder by the issuer with a value equal to the next determined NAV; and (d) the portfolio holdings for which are disclosed within at least 60 days following the end of every fiscal quarter.” Proposed Rule 8.601–E(c)(2) provides that “[t]he term ‘Actual Portfolio’ means the identities and quantities of the securities and other assets held by the Investment Company that shall form the basis for the Investment Company’s calculation of NAV at the end of the business day.” Proposed Rule 8.601–E(c)(3) provides that “[t]he term ‘Proxy Portfolio’ means a specified portfolio of securities, other financial instruments and/or cash designed to track closely the daily performance of the Actual Portfolio of a series of Active Proxy Portfolio Shares as provided in the exemptive relief pursuant to the Investment Company Act of 1940 applicable to such series.”

⁵ The Commission has previously approved listing and trading on the Exchange of a number of issues of Managed Fund Shares under NYSE Arca Rule 8.600–E. *See, e.g.*, Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 60460 (August 7, 2009), 74 FR 41468 (August 17, 2009) (SR–NYSEArca–2009–55) (order approving listing of Dent Tactical ETF); 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR–NYSEArca–2010–79) (order approving Exchange listing and trading of Cambria Global Tactical ETF); 63802 (January 31, 2011), 76 FR 6503 (February 4, 2011) (SR–NYSEArca–2010–118) (order approving Exchange listing and trading of the SiM Dynamic Allocation Diversified Income ETF and SiM Dynamic Allocation Growth Income ETF). The Commission also has approved a proposed rule change relating to generic listing standards for Managed Fund Shares. Securities Exchange Act Release No. 78397 (July 22, 2016), 81 FR 49320 (July 27, 2016) (SR–NYSEArca–2015–110) (amending NYSE Arca Equities Rule 8.600 to adopt generic listing standards for Managed Fund Shares).

⁶ NYSE Arca Rule 8.600–E(c)(2) defines the term “Disclosed Portfolio” as the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company’s calculation of net asset value at the end of the business day. NYSE Arca Rule 8.600–E(d)(2)(B)(i) requires that the Disclosed Portfolio will be disseminated at least once daily and will be made available to all market participants at the same time.

⁷ A mutual fund is required to file with the Commission its complete portfolio schedules for the second and fourth fiscal quarters on Form N–CSR under the 1940 Act. Information reported on Form N–PORT for the third month of a fund’s fiscal quarter will be made publicly available 60 days after the end of a fund’s fiscal quarter. Form N–PORT requires reporting of a fund’s complete portfolio holdings on a position-by-position basis on a quarterly basis within 60 days after fiscal quarter end. Investors can obtain a series of Active Proxy Portfolio Shares’ Statement of Additional Information (“SAI”), its Shareholder Reports, its Form N–CSR, filed twice a year, and its Form N–CEN, filed annually. A series of Active Proxy Portfolio Shares’ SAI and Shareholder Reports will be available free upon request from the Investment Company, and those documents and the Form N–PORT, Form N–CSR, and Form N–CEN may be viewed on-screen or downloaded from the Commission’s website at www.sec.gov.

⁸ The term “Lead Market Maker” is defined in Rule 1.1(w) to mean a registered Market Maker that is the exclusive Designated Market Maker in listings for which the Exchange is the primary market.

Continued

Natixis Advisors, L.P. (“Adviser”) will be the investment adviser to the Funds. Vaughan Nelson Investment Management, L.P. will be the subadviser (“Sub-Adviser”) for the Funds. ALPS Distributors, Inc. will act as the distributor and principal underwriter (“Distributor”) for the Funds.

Proposed Commentary.04 provides that, if the investment adviser to the Investment Company issuing Active Proxy Portfolio Shares is registered as a broker-dealer or is affiliated with a broker-dealer, such investment adviser will erect and maintain a “fire wall” between the investment adviser and personnel of the broker-dealer or broker-dealer affiliate, as applicable, with respect to access to information concerning the composition and/or changes to such Investment Company’s Actual Portfolio and/or Proxy Portfolio. Any person related to the investment adviser or Investment Company who makes decisions pertaining to the Investment Company’s Actual Portfolio and/or Proxy Portfolio or has access to non-public information regarding the Investment Company’s Actual Portfolio and/or Proxy Portfolio or changes thereto must be subject to procedures reasonably designed to prevent the use and dissemination of material non-public information regarding the Actual Portfolio and/or Proxy Portfolio or changes thereto. Proposed Commentary .04 is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Rule 5.2–E(j)(3); however, proposed Commentary .04, in connection with the establishment of a “fire wall” between the investment adviser and the broker-dealer, reflects the applicable open-end fund’s portfolio, not an underlying benchmark index, as is the case with index-based funds.¹¹ Proposed Commentary .04 is

of 1933 (the “1933 Act”) (15 U.S.C. 77a), and under the 1940 Act relating to the Funds (File Nos. 333–235466 and 811–23500) (the “Registration Statement”). The Trust and NYSE Group, Inc. filed a Seventh Amended and Restated Application for an Order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (File No. 812–14870), dated October 21, 2019 (“Application”). On November 14, 2019, the Commission issued a notice regarding the Application. Investment Company Release No. 33684 (File No. 812–14870). On December 10, 2019, the Commission issued an order (“Exemptive Order”) under the 1940 Act granting the exemptions requested in the Application (Investment Company Act Release No. 33711 (December 10, 2019)). The description of the operation of the Trust and the Funds herein is based, in part, on the Registration Statement and the Application.

¹¹ 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 will be subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment

also similar to Commentary .06 to Rule 8.600–E related to Managed Fund Shares, except that proposed Commentary .04 relates to establishment and maintenance of a “fire wall” between the investment adviser and personnel of the broker-dealer or broker-dealer affiliate, as applicable, applicable to an Investment Company’s Actual Portfolio and/or Proxy Portfolio or changes thereto, and not just to the underlying portfolio, as is the case with Managed Fund Shares.

In addition, proposed Commentary.05 provides that any person or entity, including a custodian, Reporting Authority, distributor, or administrator, who has access to non-public information regarding the Investment Company’s Actual Portfolio or the Proxy Portfolio or changes thereto, must be subject to procedures reasonably designed to prevent the use and dissemination of material non-public information regarding the applicable Investment Company Actual Portfolio or the Proxy Portfolio or changes thereto. Moreover, if any such person or entity is registered as a broker-dealer or affiliated with a broker-dealer, such person or entity will erect and maintain a “fire wall” between the person or entity and the broker-dealer with respect to access to information concerning the composition and/or changes to such Investment Company Actual Portfolio or Proxy Portfolio.

The Adviser is not registered as a broker-dealer but is affiliated with a broker-dealer. The Adviser has implemented and will maintain a “fire wall” with respect to such broker-dealer affiliate regarding access to information concerning the composition of and/or changes to a Fund’s Actual Portfolio and/or Proxy Portfolio. The Sub-Adviser is not registered as a broker-dealer but is affiliated with a broker-dealer. The Sub-Adviser has implemented and will

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 violations, 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.

maintain a “fire wall” with respect to its broker-dealer affiliate regarding access to information concerning the composition of and/or changes to the applicable Fund’s Actual Portfolio and/or Proxy Portfolio.

In the event (a) the Adviser or Sub-Adviser becomes registered as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer, or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to a Fund’s Actual Portfolio and/or Proxy Portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding a Fund’s Actual Portfolio and/or Proxy Portfolio or changes thereto. Any person related to the Adviser, Sub-Adviser or a Fund who makes decisions pertaining to a Fund’s Actual Portfolio or the Proxy Portfolio or has access to non-public information regarding a Fund’s Actual Portfolio and/or the Proxy Portfolio or changes thereto are subject to procedures reasonably designed to prevent the use and dissemination of material non-public information regarding a Fund’s Actual Portfolio and/or the Proxy Portfolio or changes thereto.

In addition, any person or entity, including any service provider for a Fund, who has access to non-public information regarding a Fund’s Actual Portfolio or the Proxy Portfolio or changes thereto, will be subject to procedures reasonably designed to prevent the use and dissemination of material non-public information regarding a Fund’s Actual Portfolio and/or the Proxy Portfolio or changes thereto. Moreover, if any such person or entity is registered as a broker-dealer or affiliated with a broker-dealer, such person or entity has erected and will maintain a “fire wall” between the person or entity and the broker-dealer with respect to access to information concerning the composition and/or changes to a Fund’s Actual Portfolio and/or Proxy Portfolio.

The Funds

According to the Application, the Adviser believes a Fund would allow for efficient trading of Shares through an effective Fund portfolio transparency substitute and publication of related information metrics, while still shielding the identity of the full Fund portfolio contents to protect a Fund’s performance-seeking strategies. Even

though a Fund would not publish its full portfolio contents daily, the Adviser believes that the NYSE Proxy Portfolio Methodology would allow market participants to assess the intraday value and associated risk of a Fund's Actual Portfolio. As a result, the Adviser believes that investors would be able to purchase and sell Shares in the secondary market at prices that are close to their NAV.

In this regard, the Funds will utilize a proxy portfolio methodology—the “NYSE Proxy Portfolio Methodology”—that would allow market participants to assess the intraday value and associated risk of a Fund's Actual Portfolio and thereby facilitate the purchase and sale of Shares by investors in the secondary market at prices that do not vary materially from their NAV.¹² The NYSE Proxy Portfolio Methodology would utilize creation of a Proxy Portfolio for hedging and arbitrage purposes.¹³

Natixis Vaughan Nelson Select ETF

The Fund's holdings will conform to the permissible investments as set forth in the Application and Exemptive Order and the holdings will be consistent with all requirements in the Application and Exemptive Order.¹⁴ Any foreign common stocks held by the Fund will be traded on an exchange that is a member of the Intermarket Surveillance Group (“ISG”) or with which the

Exchange has in place a comprehensive surveillance sharing agreement.

According to the Registration Statement, the Fund's investment objective is to seek long-term capital appreciation. The Fund, under normal market conditions,¹⁵ will invest primarily in equity securities, including exchange-traded common stocks, exchange-traded preferred stocks and exchange-traded real estate investment trusts (“REITs”).

Natixis Vaughan Nelson MidCap ETF

The Fund's holdings will conform to the permissible investments as set forth in the Application and Exemptive Order and the holdings will be consistent with all requirements in the Application and Exemptive Order.¹⁶ Any foreign common stocks held by the Fund will be traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

According to the Registration Statement, the Fund's investment objective is to seek long-term capital appreciation. The Fund, under normal market conditions, will invest primarily in companies that, at the time of purchase, have market capitalizations either within the capitalization range of the Russell Midcap® Value Index, an unmanaged index that measures the performance of companies with lower price-to-book ratios and lower forecasted growth values within the broader Russell Midcap Index, or of \$15 billion or less. Equity securities may take the form of exchange-traded stock in corporations and exchange-traded REITs or other exchange-traded trusts and similar securities representing direct or indirect ownership interests in business organizations.

Creations and Redemptions of Shares

According to the Registration Statement, the Trust will offer, issue and sell Shares of the Funds to investors only in specified minimum size “Creation Units” through the Distributor on a continuous basis at the NAV per Share next determined after an order in proper form is received. The NAV of a Fund is expected to be determined as of 4:00 p.m. E.T. on each Business Day. The Trust will sell and redeem Creation Units of a Fund only on a Business Day. Creation Units of a Fund may be purchased and/or redeemed entirely for cash, as permissible under the procedures described below.

The “Creation Basket” (as defined below) for a Fund's Shares will be based on a Fund's Proxy Portfolio, which is designed to approximate the value and performance of the Actual Portfolio. All Creation Basket instruments will be valued in the same manner as they are valued for purposes of calculating a Fund's NAV, and such valuation will be made in the same manner regardless of the identity of the purchaser or redeemer. Further, the total consideration paid for the purchase or redemption of a Creation Unit of Shares will be based on the NAV of a Fund, as calculated in accordance with the policies and procedures set forth in the Registration Statement.

According to the Application, Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Accordingly, except where the purchase or redemption will include cash under the circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (“Deposit Instruments”), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (“Redemption Instruments”). The names and quantities of the instruments that constitute the Deposit Instruments and the Redemption Instruments for a Fund (collectively, the “Creation Basket”) will be the same as a Fund's Proxy Portfolio, except to the extent purchases and redemptions are made entirely or in part on a cash basis.

If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the “Cash Amount”).

While a Fund normally will issue and redeem Shares in kind, a Fund may require purchases and redemptions to be made entirely or in part on a cash basis. In such an instance, a Fund will announce, before the open of trading in the Core Trading Session (normally, 9:30 a.m. to 4:00 p.m. E.T.) on a given Business Day, that all purchases, all redemptions, or all purchases and redemptions on that day will be made wholly or partly in cash. A Fund may also determine, upon receiving a purchase or redemption order from an Authorized Participant, to have the purchase or redemption, as applicable,

¹² The NYSE Proxy Portfolio Methodology is owned by the NYSE Group, Inc. and licensed for use by the Funds. NYSE Group, Inc. is not affiliated with the Funds, Adviser or Distributor. Not all series of Active Proxy Portfolio Shares will utilize the NYSE Proxy Portfolio Methodology.

¹³ With respect to the Funds, the Funds will have in place policies and procedures regarding the construction and composition of their respective Proxy Portfolio. Such policies and procedures will be covered by a Fund's compliance program and other requirements under Rule 38a–1 under the 1940 Act.

¹⁴ Pursuant to the Application and Exemptive Order, the permissible investments for each of the Funds include only the following instruments: ETFs traded on a U.S. exchange; exchange-traded notes (“ETNs”) traded on a U.S. exchange; U.S. exchange-traded common stocks; common stocks listed on a foreign exchange that trade on such exchange contemporaneously with the Shares (“foreign common stocks”) in the Exchange's Core Trading Session (normally 9:30 a.m. and 4:00 p.m. Eastern time (“E.T.”)); U.S. exchange-traded preferred stocks; U.S. exchange-traded American Depositary Receipts (“ADRs”); U.S. exchange-traded real estate investment trusts; U.S. exchange-traded commodity pools; U.S. exchange-traded metals trusts; U.S. exchange-traded currency trusts; and U.S. exchange-traded futures that trade contemporaneously with a Fund's Shares. In addition, a Fund may hold cash and cash equivalents (short-term U.S. Treasury securities, government money market funds, and repurchase agreements). A Fund will not hold short positions or invest in derivatives other than U.S. exchange-traded futures, will not borrow for investment purposes, and will not purchase any securities that are illiquid investments at the time of purchase.

¹⁵ The term “normal market conditions” is defined in proposed Rule 8.601–E(c)(6).

¹⁶ See note 14, *supra*.

be made entirely or in part in cash.¹⁷ Each Business Day, before the open of trading on the Exchange, a Fund will cause to be published through the National Securities Clearing Corporation (“NSCC”) the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Cash Amount (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following Business Day, and there will be no intra-day changes to the Creation Basket except to correct errors in the published Creation Basket.

All orders to purchase Creation Units must be placed with the Distributor by or through an Authorized Participant, which is either: (1) A “participating party” (*i.e.*, a broker or other participant), in the Continuous Net Settlement (“CNS”) System of the NSCC, a clearing agency registered with the Commission and affiliated with the Depository Trust Company (“DTC”), or (2) a DTC Participant, which in any case has executed a participant agreement with the Distributor and the transfer agent.

Timing and Transmission of Purchase Orders

All orders to purchase (or redeem) Creation Units, whether using the NSCC Process or the DTC Process, must be received by the Distributor no later than the NAV calculation time (“NAV Calculation Time”), generally 4:00 p.m. E.T. on the date the order is placed (“Transmittal Date”) in order for the purchaser (or redeemer) to receive the NAV determined on the Transmittal Date.

Daily Disclosures

With respect to the Funds, the following information will comprise the “Proxy Portfolio Disclosures” and, pursuant to the Application and Exemptive Order, will be publicly available on the Funds’ website before the commencement of trading in Shares on each Business Day:

- The Proxy Portfolio holdings (including the identity and quantity of investments in the Proxy Portfolio) will be publicly available on the Funds’ website before the commencement of trading in Shares on each Business Day.
- The historical “Tracking Error” between a Fund’s last published NAV per share and the value, on a per Share basis, of a Fund’s Proxy Portfolio

calculated as of the close of trading on the prior Business Day will be publicly available on the Funds’ website before the commencement of trading in Shares each Business Day.

- The “Proxy Overlap” will be publicly available on the Funds’ website before the commencement of trading in Shares on each Business Day. The Proxy Overlap is the percentage weight overlap between the Proxy Portfolio’s holdings compared to the Actual Portfolio’s holdings that formed the basis for a Fund’s calculation of NAV at the end of the prior Business Day. The Proxy Overlap will be calculated by taking the lesser weight of each asset held in common between the Actual Portfolio and the Proxy Portfolio and adding the totals.

Availability of Information

The Funds’ website (www.im.natixis.com), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for a Fund that may be downloaded. The Funds’ website will include on a daily basis, per Share for a Fund, the prior Business Day’s NAV and the “Closing Price” or “Bid/Ask Price,”¹⁸ and a calculation of the premium/discount of the Closing Price or Bid/Ask Price against such NAV. The Adviser has represented that the Funds’ website will also provide: (1) Any other information regarding premiums/discounts as may be required for other ETFs under Rule 6c-11 under the 1940 Act, as amended, and (2) any information regarding the bid/ask spread for a Fund as may be required for other ETFs under Rule 6c-11 under the 1940 Act, as amended. The Funds’ website also will disclose the information required under proposed Rule 8.601–E(c)(3).¹⁹ The website and

¹⁸ The records relating to Bid/Ask Prices will be retained by the Funds or their service providers. The “Bid/Ask Price” is the midpoint of the highest bid and lowest offer based upon the National Best Bid and Offer as of the time of calculation of a Fund’s NAV. The “National Best Bid and Offer” is the current national best bid and national best offer as disseminated by the Consolidated Quotation System or UTP Plan Securities Information Processor. The “Closing Price” of Shares is the official closing price of the Shares on the Exchange.

¹⁹ See note 4, *supra*. Proposed Rule 8.601–E (c)(3) provides that the website for each series of Active Proxy Portfolio Shares shall disclose the information regarding the Proxy Portfolio as provided in the exemptive relief pursuant to the Investment Company Act of 1940 applicable to such series, including the following, to the extent applicable:

- (i) Ticker symbol;
- (ii) CUSIP or other identifier;
- (iii) Description of holding;
- (iv) Quantity of each security or other asset held; and

information will be publicly available at no charge.

The Proxy Portfolio holdings for each Fund (including the identity and quantity of investments in the Proxy Portfolio) will be publicly available on the Funds’ website before the commencement of trading in Shares on each Business Day.

Typical mutual fund-style annual, semi-annual and quarterly disclosures contained in a Fund’s Commission filings will be provided on the Funds’ website on a current basis.²⁰ Thus, each Fund will publish the portfolio contents of its Actual Portfolio on a periodic basis, and no less than 60 days after the end of every fiscal quarter.

Investors can also obtain a Fund’s SAI, Shareholder Reports, Form N–CSR, N–PORT and Form N–CEN. The prospectus, SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N–CSR, N–PORT, and Form N–CEN may be viewed on-screen or downloaded from the Commission’s website. The Exchange also notes that pursuant to its Exemptive Order, a Fund must comply with Regulation Fair Disclosure, which prohibits selective disclosure of any material non-public information.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers’ computer screens and other electronic services. 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, U.S. exchange-traded common stocks, preferred stocks and ADRs will be available via the Consolidated Tape Association (“CTA”) high-speed line or from the exchange on which such securities trade. Price information for futures, foreign stocks and cash equivalents is available through major market data vendors. Intraday pricing information for all constituents of the Proxy Portfolio for each Fund that are exchange-traded, which includes all eligible instruments except cash and cash equivalents, will be available on the exchanges on which they are traded and through subscription services. Intraday pricing information for cash equivalents will be available through subscription services and/or pricing services.

(v) Percentage weighting of the holding in the portfolio.

²⁰ See note 7, *supra*.

¹⁷ The Adviser represents that, to the extent the Trust effects the creation or redemption of Shares in cash on any given day, such transactions will be effected in the same manner for all Authorized Participants placing trades with a Fund on that day.

Investment Restrictions

The Shares of the Funds will conform to the initial and continued listing criteria under proposed Rule 8.601–E. Each Fund’s holdings will be limited to and consistent with permissible holdings as described in the Application and all requirements in the Application and Exemptive Order.²¹

Each Fund’s investments, including derivatives, will be consistent with its investment objective and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage). That is, a Fund’s investments will not be used to seek performance that is the multiple or inverse multiple (*e.g.*, 2X or -3X) of a Fund’s primary broad-based securities benchmark index (as defined in Form N–1A).²²

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 a Fund.²³ Trading in Shares of a 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 Shares will be subject to NYSE Arca Rule 8.601–E(d)(2)(D), which sets forth circumstances under which Shares of a Fund will be halted.

Specifically, proposed Rule 8.601–E(d)(2)(D) provides that the Exchange may consider all relevant factors in exercising its discretion to halt trading in a series of Active Proxy Portfolio Shares. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the series of Active Proxy Portfolio Shares inadvisable. These may include: (a) The extent to which trading is not occurring in the securities and/or the financial instruments composing the Proxy Portfolio and/or Actual Portfolio; or (b) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. If the Exchange becomes aware that the NAV, Proxy Portfolio or Actual Portfolio with respect to a series of Active Proxy Portfolio Shares is not disseminated to all market participants at the same time,

the Exchange shall halt trading in such series until such time as the NAV, Proxy Portfolio or Actual Portfolio is available to all market participants at the same time.

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 in all trading sessions in accordance with NYSE Arca Rule 7.34–E(a). 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.

The Shares will conform to the initial and continued listing criteria under proposed NYSE Arca Rule 8.601–E. The Exchange has appropriate rules to facilitate trading in the Shares during all trading sessions.

A minimum of 100,000 Shares for each Fund will be outstanding at the commencement of trading on the Exchange. In addition, pursuant to proposed Rule 8.601–E(d)(1)(B), the Exchange, prior to commencement of trading in the Shares, will obtain a representation from the Adviser that the NAV per Share of each Fund will be calculated daily and that the NAV, Proxy Portfolio and the Actual Portfolio for each Fund will be made available to all market participants at the same time.

With respect to Active Proxy Portfolio Shares, all of the Exchange member obligations relating to product description and prospectus delivery requirements will continue to apply in accordance with Exchange rules and federal securities laws, and the Exchange and the Financial Industry Regulatory Authority, Inc. (“FINRA”) will continue to monitor Exchange members for compliance with such requirements.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Exchange, as well as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.²⁴ 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.

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 and underlying exchange-traded instruments with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading such securities and underlying exchange-traded instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in such securities and underlying exchange-traded instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.²⁵

The Adviser will make available daily to FINRA and the Exchange the Actual Portfolio of a Fund, upon request, in order to facilitate the performance of the surveillances referred to above.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Proposed Commentary .03 to NYSE Arca Rule 8.601–E provides that the Exchange will implement and maintain written surveillance procedures for Active Proxy Portfolio Shares. As part of these surveillance procedures, the Investment Company’s investment adviser will upon request by the Exchange or FINRA, on behalf of the Exchange, make available to the Exchange or FINRA the daily Actual Portfolio holdings of each series of Active Proxy Portfolio Shares. The Exchange believes that the ability to access the information on an as needed basis will provide it with sufficient information to perform the necessary regulatory functions associated with listing and trading series of Active

²¹ See note 14, *supra*.

²² A Fund’s broad-based securities benchmark index will be identified in a future amendment to its Registration Statement following a Fund’s first full calendar year of performance.

²³ See NYSE Arca Rule 7.12–E.

²⁴ 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.

²⁵ For a list of the current members of ISG, see www.isgportal.org.

Proxy Portfolio Shares on the Exchange, including the ability to monitor compliance with the initial and continued listing requirements as well as the ability to surveil for manipulation of Active Proxy Portfolio Shares.

The Exchange will utilize its existing procedures to monitor issuer compliance with the requirements of proposed Rule 8.601–E. For example, the Exchange will continue to use intraday alerts that will notify Exchange personnel of trading activity throughout the day that may indicate that unusual conditions or circumstances are present that could be detrimental to the maintenance of a fair and orderly market. The Exchange will require from the issuer of Active Proxy Portfolio Shares, upon initial listing and periodically thereafter, a representation that it is in compliance with Rule 8.601–E. The Exchange notes that proposed Commentary .01 to Rule 8.601–E would require an issuer of Active Proxy Portfolio Shares to notify the Exchange of any failure to comply with the continued listing requirements of Rule 8.601–E. In addition, the Exchange will require issuers to represent that they will notify the Exchange of any failure to comply with the terms of applicable exemptive and no-action relief. As part of its surveillance procedures, the Exchange will rely on the foregoing procedures to become aware of any non-compliance with the requirements of Rule 8.601–E.

With respect to the Funds, all statements and representations made in this filing regarding (a) the description of the portfolio or reference asset, (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 on the Exchange. The Exchange will obtain a representation from the Adviser, prior to commencement of trading in the Shares of a Fund, that it will advise the Exchange of any failure by a 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 a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with

Section 6(b) of the Act,²⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,²⁷ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

With respect to the proposed listing and trading of Shares of the Funds, the Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in proposed NYSE Arca Rule 8.601–E.²⁸

Each Fund's holdings will conform to the permissible investments as set forth in the Application and the Exemptive Order and the holdings will be consistent with all requirements in the Application and Exemptive Order.²⁹

Each Fund's investments, including derivatives, will be consistent with its investment objective and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage). That is, a Fund's investments will not be used to seek performance that is the multiple or inverse multiple (e.g., 2X or -3X) of a Fund's primary broad-based securities benchmark index (as defined in Form N-1A).

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and underlying exchange-traded instruments with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and underlying exchange-traded instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and underlying exchange-traded instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Any foreign common stocks held by a Fund will be traded on an exchange that is a member of the ISG or with which the Exchange has in place

a comprehensive surveillance sharing agreement.

The Exchange, after consulting with various LMMs that trade ETFs on the Exchange, believes that market makers will be able to make efficient and liquid markets priced near the ETF's intraday value, and market makers employ market making techniques such as "statistical arbitrage," including correlation hedging, beta hedging, and dispersion trading, which is currently used throughout the financial services industry, to make efficient markets in exchange-traded products.³⁰ For Active Proxy Portfolio Shares, market makers may use the knowledge of a fund's means of achieving its investment objective, as described in the applicable fund registration statement, as well as a fund's disclosed Proxy Portfolio, to construct a hedging proxy for a fund to manage a market maker's quoting risk in connection with trading fund shares. Market makers can then conduct statistical arbitrage between their hedging proxy and shares of a fund, buying and selling one against the other over the course of the trading day. This ability should permit market makers to make efficient markets in an issue of Active Proxy Portfolio Shares without precise knowledge of a fund's underlying portfolio. This is similar to certain other existing exchange-traded products (for example, ETFs that invest in foreign securities that do not trade during U.S. trading hours), in which spreads may be generally wider in the early days of trading and then narrow as market makers gain more confidence in their real-time hedges.

The Funds will utilize the NYSE Proxy Portfolio Methodology that would allow market participants to assess the intraday value and associated risk of a Fund's Actual Portfolio and thereby facilitate the purchase and sale of Shares by investors in the secondary market at prices that do not vary materially from their NAV.

The daily dissemination of the identity and quantity of Proxy Portfolio component investments, together with the right of Authorized Participants to create and redeem each day at the NAV, will be sufficient for market participants to value and trade Shares in a manner that will not lead to significant deviations between the Shares' Bid/Ask Price and NAV.

With respect to Active Proxy Portfolio Shares generally, the pricing efficiency with respect to trading a series of Active Proxy Portfolio Shares will generally rest on the ability of market participants to arbitrage between the shares and a

²⁶ 15 U.S.C. 78f(b).

²⁷ 15 U.S.C. 78f(b)(5).

²⁸ The Exchange represents that, for initial and continued listing, the Funds will be in compliance with Rule 10A-3 under the Act, as provided by NYSE Arca Rule 5.3–E.

²⁹ See note 14, *supra*.

³⁰ See note 9, *supra*.

fund's portfolio, in addition to the ability of market participants to assess a fund's underlying value accurately enough throughout the trading day in order to hedge positions in shares effectively. Professional traders can buy shares that they perceive to be trading at a price less than that which will be available at a subsequent time and sell shares they perceive to be trading at a price higher than that which will be available at a subsequent time. It is expected that, as part of their normal day-to-day trading activity, market makers assigned to shares by the Exchange, off-exchange market makers, firms that specialize in electronic trading, hedge funds and other professionals specializing in short-term, non-fundamental trading strategies will assume the risk of being "long" or "short" shares through such trading and will hedge such risk wholly or partly by simultaneously taking positions in correlated assets³¹ or by netting the exposure against other, offsetting trading positions—much as such firms do with existing ETFs and other equities. Disclosure of a fund's investment objective and principal investment strategies in its prospectus and SAI should permit professional investors to engage easily in this type of hedging activity.

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 Adviser that the NAV per Share of each Fund will be calculated daily and that the NAV, Proxy Portfolio and the Actual Portfolio for each Fund will be made available to all market participants at the same time. Investors can obtain a Fund's SAI, shareholder reports, and its Form N-CSR, Form N-PORT and Form N-CEN. A Fund's SAI and shareholder reports will be available free upon request from the a Fund, and those documents and the Form N-CSR, Form N-PORT and Form N-CEN may be viewed on-screen or downloaded from the Commission's website. In addition, with respect to each Fund, a large

amount of information will be publicly available regarding the Funds and the Shares, thereby promoting market transparency. Quotation and last sale information for the Shares, ETFs, ETNs, U.S. exchange-traded common stocks, preferred stocks and ADRs will be available via the CTA high-speed line or from the exchange on which such securities trade. Price information for futures, foreign stocks and cash equivalents is available through major market data vendors. The website for the Funds will include a form of the prospectus for each Fund that may be downloaded, and additional data relating to NAV and other applicable quantitative information, updated on a daily basis. Trading in Shares of the Funds 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 8.601-E (d)(2)(D), which sets forth circumstances under which Shares of the Fund will be halted. In addition, as noted above, investors will have ready access to the Proxy Portfolio and quotation and last sale information for the Shares. The Proxy Portfolio holdings for each Fund (including the identity and quantity of investments in the Proxy Portfolio) will be publicly available on the Funds' website before the commencement of trading in Shares on each Business Day. The Shares will conform to the initial and continued listing criteria under proposed Rule 8.601-E.³²

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 will enhance competition among market participants, to the benefit of investors and the marketplace. The Exchange will obtain a representation from the Adviser, prior to commencement of trading in the Shares of a Fund, that it will advise the Exchange of any failure by a 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 a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5-E(m).

³² See Amendment 6 to SR-NYSEArca-2019-95, referenced in note 4, *supra*.

As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change would permit listing and trading of another type of actively-managed ETF that has characteristics different from existing actively-managed and index ETFs and would introduce additional competition among various ETF products to the benefit of investors.

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. 2, 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

³¹ Price correlation trading is used throughout the financial industry. It is used to discover both trading opportunities to be exploited, such as currency pairs and statistical arbitrage, as well as for risk mitigation such as dispersion trading and beta hedging. These correlations are a function of differentials, over time, between one or multiple securities pricing. Once the nature of these price deviations have been quantified, a universe of securities is searched in an effort to, in the case of a hedging strategy, minimize the differential. Once a suitable hedging basket has been identified, a trader can minimize portfolio risk by executing the hedging basket. The trader then can monitor the performance of this hedge throughout the trade period, making corrections where warranted.

• Send an email to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2020-51 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2020-51. 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-NYSEArca-2020-51, and should be submitted on or before July 20, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³³

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2020-13871 Filed 6-26-20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89129; File No. SR-NYSEArca-2020-57]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Permit the Continued Listing and Trading of the WisdomTree Mortgage Plus Bond Fund

June 23, 2020.

Pursuant to Section 19(b)(1) ¹ of the Securities Exchange Act of 1934 (the "Act") ² and Rule 19b-4 thereunder, ³ notice is hereby given that, on June 11, 2020, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I 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 permit the continued listing and trading of the WisdomTree Mortgage Plus Bond Fund listed under NYSE Arca Rule 8.600-E. The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to NYSE Arca Rule 8.600-E, the Exchange proposes to permit the

continued listing and trading of the WisdomTree Mortgage Plus Bond Fund (the "Fund"), a series of the WisdomTree Trust (the "Trust"), listed under NYSE Arca Rule 8.600-E ("Managed Fund Shares"),⁴ that does not otherwise meet the standards set forth in Rule 8.600-E, Commentary .01(b)(4), as described below. The shares ("Shares") of the Fund commenced trading on the Exchange on November 14, 2019 pursuant to the generic listing standards under Commentary .01 to NYSE Arca Rule 8.600-E (ticker symbol MTGP).

The Shares are offered by the Trust, which is registered with the Commission as an open-end management investment company consisting of multiple investment series.⁵ Each Fund is a series of the Trust. WisdomTree Asset Management, Inc. (the "Adviser") is the investment adviser to the Fund. Voya Investment Management Co., LLC (the "Subadviser") is the subadviser to the Fund. Foreside Fund Services, LLC serves as the distributor ("Distributor") of the Shares 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 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.⁶ In addition,

⁴ 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.

⁵ The Trust is registered under the 1940 Act. On December 19, 2019 (effective January 1, 2020), the Trust filed with the Securities and Exchange Commission ("SEC" or "Commission") a registration statement update 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. 333-132380 and 811-21864) ("Registration Statement"). The description of the operation of the Trust and of the Fund and Shares herein is based, in part, on the Registration Statement. There are no permissible holdings for the Fund that are not described in this proposal. The Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a-1) ("1940 Act"). See Investment Company Act Release No. 28471 (Oct. 27, 2008) (File No. 812-13458).

⁶ An investment adviser to an open-end fund is required to be registered under the Investment

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

³³ 17 CFR 200.30-3(a)(12).

Commentary .06 further requires that personnel who make decisions on the investment company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable investment company portfolio.

The Adviser is not a registered broker-dealer and is not affiliated with a broker-dealer. In addition, Adviser personnel who make decisions regarding the Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio. The Subadviser is affiliated with multiple broker-dealers and has implemented and will maintain a "fire wall" with respect to such broker-dealers and their personnel regarding access to information concerning the composition and/or changes to the Fund's portfolio. In addition, Subadviser personnel who make decisions regarding a Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio. In the event that (a) the Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or subadviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of

Advisers Act of 1940 (the "Advisers Act"). As a result, the Adviser and Subadviser 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.

material non-public information regarding such portfolio.

As discussed below, the Fund's investments currently comply with the generic requirements set forth in Commentary .01 to Rule 8.600-E for Managed Fund Shares ("Generic Listing Standards"), except as described herein. The Exchange submits this proposal in order to allow the Fund to hold fixed income securities in a manner that would not satisfy the criteria in Commentary .01(b)(4).⁷ Specifically, the Fund seeks to allow up to 20% of the Fund's portfolio to be composed of the following securitized credit securities that will not satisfy the criteria in Commentary .01(b)(4): Non-agency or privately issued residential and commercial mortgage-backed securities ("MBS"), asset-backed securities ("ABS"), collateralized debt (including loan) obligations and credit risk transfer securities (*i.e.*, debt issued by government agencies, but which is not backed by the government agencies such that credit risk is transferred to the private sector) (collectively, "Private ABS/MBS"). The Exchange notes that this proposed rule change is similar to previous rule changes involving Managed Fund Shares seeking similar relief.⁸

Principal Investments of the Fund

The investment objective of the Fund seeks to provide income and capital appreciation. The Fund seeks to achieve its investment objective by investing primarily in a portfolio of mortgage-

⁷ 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.

⁸ See Securities Exchange Act Release No. 87963 (January 14, 2020), 85 FR 3458 (January 21, 2020) (SR-NYSEArca-2019-51) (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 Henderson Mortgage-Backed Securities ETF) (approving expanding permitted investments beyond what is permitted under the generic listing requirements, including excluding Private ABS/MBS from the 90% calculation in Commentary .01(b)(4)) ("Release No. 87963"). See also Securities Exchange Act Release No. 87576 (November 20, 2019), 84 FR 65206 (November 26, 2019) (SR-NYSEArca-2019-14) (approving certain changes to the listing rule for shares of the PGIM Ultra Short Bond ETF expanding permitted investments beyond what is permitted under the generic listing requirements).

related fixed income securities issued or guaranteed by the U.S. government or its agencies or instrumentalities.⁹ Under normal market conditions,¹⁰ the Fund invests at least 80% of its net assets (plus any borrowings for investment purposes) in mortgage-related debt and other securitized debt. Specifically, the Fund may invest in the following mortgage-related fixed income instruments issued or guaranteed by the U.S. government or its agencies or instrumentalities ("Mortgage-Related Fixed Income Instruments"):

- Government National Mortgage Association ("GNMA"), the Federal National Mortgage Association ("FNMA"), and Federal Home Loan Mortgage Corporation ("FHLMC") mortgage-related fixed income securities;
- residential mortgage-backed securities;
- commercial mortgage-backed securities;
- collateralized mortgage obligations;
- real estate mortgage investment conduits ("REMICs"); and
- exchange-traded funds ("ETFs")¹¹ and mutual funds that invest primarily in mortgage-backed securities.

The Fund may purchase mortgage-backed securities through standardized contracts for future delivery in which the exact mortgage pools to be delivered are not specified until a few days prior to settlement, referred to as a "to-be-announced transaction" or "TBA Transaction."

The Fund's investments in Mortgage-Related Fixed Income Instruments and Private ABS/MBS may be represented by futures contracts.

⁹ Agency MBS includes residential mortgage-backed securities, commercial mortgage-backed securities, and structured products such as collateralized mortgage obligations and real estate mortgage investment conduits ("REMICs"). For avoidance of doubt, the Fund will comply with Commentary.01(b)(5) to NYSE Arca Rule 8.600-E, which 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. For purposes of this filing, all non-agency, non-GSE and privately-issued mortgage-related and other asset-backed securities components of the Fund's portfolio, including, without limitation, Private ABS/MBS, shall not account, in the aggregate, for more than 20% of the weight of the Fund's portfolio.

¹⁰ The term "normal market conditions" is defined in NYSE Arca Rule 8.600-E(c)(5).

¹¹ For purposes of this filing, ETFs are Investment Company Units (as described in NYSE Arca Rule 5.2-E(j)(3)); Exchange-Traded Fund Shares (as described in NYSE Arca Rule 5.2-E(j)(8)); Portfolio Depositary 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 in the U.S. on a national securities exchange.

The Fund may hold cash and cash equivalents.¹²

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 would meet all such requirements except for those set forth in Commentary .01(b)(4) applicable to Private ABS/MBS as defined above.¹³

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 by their nature cannot satisfy the criteria in Commentary .01(b)(4). Private ABS/MBS are generally issued by special purpose vehicles in amounts smaller than the minimum dollar threshold set forth in Commentary .01(b)(4), so the criteria in Commentary .01(b)(4) to Rule 8.600–E regarding an issuer’s market capitalization and the remaining principal amount of an issuer’s securities are typically unavailable with respect to Private ABS/MBS, even though such Private ABS/MBS may own significant assets. Instead, the Exchange proposes that the Fund’s investments in Mortgage-Related Fixed Income Instruments other than Private ABS/MBS will be required to comply with the requirements of Commentary .01(b)(4).

The Exchange believes that excluding Private ABS/MBS from the 90% calculation in Commentary .01(b)(4) is consistent with the Act because the Fund’s portfolio will minimize the risk to the overall Fund associated with any particular holding of the Fund as a result of the diversification provided by the investments and the Adviser’s selection process, which closely monitors investments to ensure maintenance of credit and liquidity standards. Further, the Exchange believes that this alternative limitation is appropriate because Commentary

.01(b)(4) to Rule 8.600–E is not designed for structured finance vehicles such as Private ABS/MBS.

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).¹⁴

The proposed exceptions from the requirements of Commentary .01 to Rule 8.600–E described above are consistent with the Fund’s investment objective, and will further assist the Adviser to achieve such investment objective. 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 the continued listing and trading of Shares of the Fund on the Exchange pursuant to the requirements set forth herein. In addition, the Fund’s investments in Private ABS/MBS are subject to the Fund’s liquidity risk management program as approved by the Fund’s board of trustees.¹⁵ The liquidity procedures generally include public disclosure by the Fund of its liquidity and redemption practices. The Fund’s holdings in Private ABS/MBS are, and will continue to be, encompassed within the Fund’s liquidity risk management program. The Exchange notes that all Mortgage-Related Fixed Income Instruments other than Private ABS/MBS will meet the requirements of Commentary .01(b)(4) to Rule 8.600–E.

Except for the change noted above, the Fund will continue to comply with all other listing requirements on an initial and continued listing basis under Commentary .01 to Rule 8.600–E for Managed Fund Shares.

Availability of Information

The Fund’s website (<https://www.WisdomTree.com>) will include the Fund’s prospectus that may be downloaded. The Fund’s website will include ticker, CUSIP and exchange information, along with additional quantitative information updated on a daily basis, including, for the Fund: (1) The prior Business Day’s net asset value (“NAV”) per share and the market closing price or mid-point of the bid/ask spread at the time of calculation of such NAV per share (the “Bid/Ask Price”),¹⁶ and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV per share; and (2) a table showing the number of days of such premium or discount for the most recently completed calendar year, and the most recently completed calendar quarters since that year (or the life of Fund, if shorter). 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.

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.

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–CEN. 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, Form N–PORT and Form N–CEN may be viewed on-screen or downloaded from the Commission’s website at www.sec.gov.

Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the Consolidated Tape Association (“CTA”). Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers’ computer screens and other electronic services. Information regarding the previous day’s closing price and trading volume information

¹² The Fund’s investments in futures will comply with the requirements of Commentary .01(d) to NYSE Arca Rule 8.600–E, and cash equivalents will comply with Commentary .01(c) to NYSE Arca Rule 8.600–E.

¹³ Because the Fund is not in compliance with Rule 8.600–E, Commentary .01(b)(4), the Exchange has commenced delisting proceedings pursuant to Rule 5.5–E(m), including issuing a deficiency notification, for which the Fund has been granted a cure period to come into compliance.

¹⁴ See Release No. 87963, 85 FR at 3458.

¹⁵ Rule 22e–4(b) under the 1940 Act requires, among other things, that a fund “adopt and implement a written liquidity risk management program that is reasonably designed to assess and manage its liquidity risk.” The rule is “designed to promote effective liquidity risk management throughout the open-end investment company industry, thereby reducing the risk that funds will be unable to meet their redemption obligations and mitigating dilution of the interests of fund shareholders.” See Release Nos. 33–10233; IC–32315; File No. S7–16–15 (October 13, 2016).

¹⁶ 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.

for the Shares will be published daily in the financial section of newspapers.

Price information regarding Mortgage-Related Fixed Income Instruments, Private ABS/MBS, cash equivalents and futures generally may be obtained from brokers and dealers who make markets in such securities or through nationally recognized pricing services through subscription agreements. Price information regarding exchange-traded futures is also available from the applicable exchange on which the future is listed and traded.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by Financial Industry Regulatory Authority ("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.¹⁷

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 and certain Mortgage-Related Fixed Income Instruments and futures 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 comprehensive surveillance sharing agreement. FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain Mortgage-Related Fixed Income Instruments and cash equivalents held by the Fund reported to FINRA's Trade Reporting and Compliance Engine ("TRACE").

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, (c) dissemination and availability of reference assets and portfolio indicative values, or (d) 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).

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)¹⁸ 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 noncompliance for Private ABS/MBS 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) is appropriate because certain Private ABS/MBS by their nature cannot satisfy the criteria in Commentary .01(b)(4). As described above, Private ABS/MBS are generally issued by special purpose vehicles in

amounts smaller than the minimum dollar threshold set forth in Commentary .01(b)(4), so the criteria in Commentary .01(b)(4) to Rule 8.600–E regarding an issuer's market capitalization and the remaining principal amount of an issuer's securities are typically unavailable with respect to Private ABS/MBS, even though such Private ABS/MBS may own significant assets. Instead, the Exchange proposes that the Fund's investments in Mortgage-Related Fixed Income Instruments other than Private ABS/MBS will be required to comply with the requirements of Commentary .01(b)(4).

The Exchange believes that excluding Private ABS/MBS from the 90% calculation in Commentary .01(b)(4) is consistent with the Act because the Fund's portfolio will minimize the risk to the overall Fund associated with any particular holding of the Fund as a result of the diversification provided by the investments and the Adviser's selection process, which closely monitors investments to ensure maintenance of credit and liquidity standards. The proposed exceptions from the requirements of Commentary .01 to Rule 8.600–E described above are consistent with the Fund's investment objective, and will further assist the Adviser to achieve such investment objective. 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 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 the continued listing and trading of Shares of the Fund on the Exchange pursuant to the requirements set forth herein. In addition, as noted, the Fund's investments in Private ABS/MBS are subject to the Fund's liquidity risk management program as approved by the Fund's board of trustees.¹⁹ The liquidity procedures generally include public disclosure by the Fund of its liquidity and redemption practices. The Fund's holdings in Private ABS/MBS

¹⁷ 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.

¹⁸ 15 U.S.C. 78f(b)(5).

¹⁹ Rule 22e–4(b) under the 1940 Act requires, among other things, that a fund "adopt and implement a written liquidity risk management program that is reasonably designed to assess and manage its liquidity risk." The rule is "designed to promote effective liquidity risk management throughout the open-end investment company industry, thereby reducing the risk that funds will be unable to meet their redemption obligations and mitigating dilution of the interests of fund shareholders." See Release Nos. 33–10233; IC–32315; File No. S7–16–15 (October 13, 2016).

are, and will continue to be, encompassed within the Fund's liquidity risk management program. The Exchange notes that all Mortgage-Related Fixed Income Instruments other than Private ABS/MBS will meet the requirements of Commentary .01(b)(4) to Rule 8.600–E.

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).²⁰

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Funds on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws.

Trading of the Funds through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Fund Shares. All statements and representations made in this filing regarding the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of reference assets and portfolio indicative values, and the applicability of Exchange listing rules specified in this filing shall constitute continued listing requirements for the Funds. The Trust, on behalf of the Funds, has represented to the Exchange that it will advise the Exchange of any failure by a Fund or the Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If a Fund or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 5.5–E(m).

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange believes that the proposed rule change will facilitate listing and trading of

shares of another actively managed ETF that principally holds 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

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 Act²¹ and Rule 19b–4(f)(6) thereunder.²²

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act²³ normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)²⁴ 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 states that waiver of the 30-day operative delay would facilitate the Adviser and the Subadviser's ability to continue to implement the Fund's investment objective in a manner that is cost-effective, maximizes investors' returns, and is consistent with the principles of Section 6(b)(5) of the Act. According to the Exchange, except for the change noted above, the Fund will continue to comply with all other listing requirements on an initial and continued listing basis under Commentary .01 to Rule 8.600–E for Managed Fund Shares. Specifically, the Exchange represents that all Mortgage-Related Fixed Income Instruments other than Private ABS/MBS will meet the

requirements of Commentary .01(b)(4) to Rule 8.600–E. Because the Fund is currently not in compliance with Rule 8.600–E, Commentary .01(b)(4), the Exchange has commenced delisting proceedings pursuant to Rule 5.5–E(m), including issuing a deficiency notification, for which the Fund has been granted a cure period to come into compliance. The Exchange represents that, in connection with this proposed rule change, all statements and representations made in this filing regarding the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of reference assets and portfolio indicative values, and the applicability of Exchange listing rules specified in this filing shall constitute continued listing requirements for the Funds, and that the Trust, on behalf of the Funds, has represented to the Exchange that it will advise the Exchange of any failure by the Fund or the Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If the Fund or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 5.5–E(m). For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.²⁵

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

²¹ 15 U.S.C. 78s(b)(3)(A).

²² 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.

²³ 17 CFR 240.19b–4(f)(6).

²⁴ 17 CFR 240.19b–4(f)(6)(iii).

²⁵ 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).

²⁰ See Release No. 87963, 85 FR at 3458.

change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2020-57 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2020-57. 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-2020-57, and should be submitted on or before July 20, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁶

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2020-13873 Filed 6-26-20; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89136; File No. SR-MIAX-2020-17]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change To Add the Consolidated Audit Trail Industry Member Compliance Rules to Exchange Rule 1014, Imposition of Fines for Minor Rule Violations

June 23, 2020

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that, on June 18, 2020, Miami International Securities Exchange, LLC ("MIAX Options" 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 and approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to add the Consolidated Audit Trail ("CAT") industry member compliance rules to the list of minor rule violations in Rule 1014.

The text of the proposed rule change is available on the Exchange's website at <http://www.miaxoptions.com/rule-filings/> at MIAX Options' principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to add its CAT industry member compliance rules (the "CAT Compliance Rules") to the list of minor rule violations in Rule 1014. This proposal is based upon the Financial Industry Regulatory Authority, Inc. ("FINRA") filing to amend FINRA Rule 9217 in order to add FINRA's corresponding CAT Compliance Rules to FINRA's list of rules that are eligible for minor rule violation plan treatment.³ This proposal is also based upon the New York Stock Exchange, Inc. ("NYSE") filing to amend NYSE Rule 9217 in order to add NYSE's corresponding CAT Compliance Rules to NYSE's list of rules that are eligible for minor rule violation plan treatment.⁴

Proposed Rule Change

The Exchange recently adopted the CAT Compliance Rules under Chapter XVII in order to implement the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan" or "Plan").⁵ The CAT NMS Plan was filed by the Plan Participants to comply with Rule 613 of Regulation NMS under the Exchange Act,⁶ and each Plan Participant accordingly has adopted the same compliance rules in the Exchange's Chapter XVII. The common compliance rules adopted by each Plan Participant are designed to require industry members to comply with the provisions of the CAT NMS Plan, which broadly calls for industry members to record and report timely and accurately customer, order, and trade information relating to activity in NMS Securities and OTC Equity Securities.

Rule 1014 sets forth the list of rules under which a member may be subject to a fine. Rule 1014 permits the Exchange to impose a fine of up to \$5,000 on any member or a person associated with or employed by a member for a minor violation of an eligible rule. The Exchange proposes to amend Rule 1014 to add the CAT Compliance Rules under Chapter XVII to the list of rules eligible for

³ See Securities Exchange Act Release Nos. 88870 (May 14, 2020), 85 FR 30768 (May 20, 2020) (SR-FINRA-2020-013).

⁴ See SR-NYSE-2020-51.

⁵ See Securities Exchange Act Release No. 80256 (March 15, 2017), 82 FR 14526 (March 21, 2017) (SR-MIAX-2017-03).

⁶ 17 CFR 242.613.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

²⁶ 17 CFR 200.30-3(a)(12).

disposition pursuant to a minor fine under Rule 1014.⁷

The Exchange is coordinating with FINRA and other Plan Participants to promote harmonized and consistent enforcement of all the Plan Participants' CAT Compliance Rules. The Commission recently approved a Rule 17d-2 Plan under which the regulation of CAT Compliance Rules will be allocated among Plan Participants to reduce regulatory duplication for industry members that are members of more than one Participant ("common members").⁸ Under the Rule 17d-2 Plan, the regulation of CAT Compliance Rules with respect to common members that are members of FINRA is allocated to FINRA. Similarly, under the Rule 17d-2 Plan, responsibility for common members of multiple other Plan Participants and not a member of FINRA will be allocated among those other Plan Participants, including to the Exchange. For those non-common members who are allocated to the Exchange pursuant to the Rule 17d-2 Plan, the Exchange and FINRA entered into a Regulatory Services Agreement ("RSA") pursuant to which FINRA will conduct surveillance, investigation, examination, and enforcement activity in connection with the CAT Compliance Rules on the Exchange's behalf. We expect that the other exchanges would be entering into a similar RSA.

In order to achieve consistency with FINRA and the other Plan Participants, the Exchange proposes to adopt fines up to \$2,500 in connection with minor rule fines for violations of the CAT Compliance Rules under Chapter XVII under Rule 1014 and the Exchange's MRVP.

FINRA, in connection with its proposed amendment to FINRA Rule 9217 to make FINRA's CAT Compliance Rules MRVP eligible, has represented that it will apply the minor fines for CAT Compliance Rules in the same

manner that FINRA has for its similar existing audit trail-related rules.⁹ Accordingly, in order to promote regulatory consistency, the Exchange plans to do the same. Specifically, application of a minor rule fine with respect to CAT Compliance Rules will be guided by the same factors that FINRA referenced in its filing. However, more formal disciplinary proceedings may be warranted instead of minor rule dispositions in certain circumstances such as where violations prevent regulatory users of the CAT from performing their regulatory functions. Where minor rule dispositions are appropriate, the following factors help guide the determination of fine amounts:

- Total number of reports that are not submitted or submitted late;
- The timeframe over which the violations occur;
- Whether violations are batched;
- Whether the violations are the result of the actions of one individual or the result of faulty systems or procedures;
- Whether the firm has taken remedial measures to correct the violations;
- Prior minor rule violations within the past 24 months;
- Collateral effects that the failure has on customers; and
- Collateral effects that the failure has on the Exchange's ability to perform its regulatory function.¹⁰

Upon effectiveness of this rule change, the Exchange will publish a regulatory bulletin notifying its member organizations of the rule change and the specific factors that will be considered in connection with assessing minor rule fines described above.

For the foregoing reasons, the Exchange believes that the proposed rule change will result in a coordinated, harmonized approach to CAT compliance rule enforcement across Plan Participants that will be consistent with the approach FINRA has taken with the CAT rules.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,¹¹ in general, and furthers the objectives of Section 6(b)(5),¹² in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and

equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

Minor rule fines provide a meaningful sanction for minor or technical violations of rules when the conduct at issue does not warrant stronger, immediately reportable disciplinary sanctions. The inclusion of a rule in the Exchange's MRVP does not minimize the importance of compliance with the rule, nor does it preclude the Exchange from choosing to pursue violations of eligible rules through a Letter of Consent if the nature of the violations or prior disciplinary history warrants more significant sanctions. Rather, the Exchange believes that the proposed rule change will strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities in cases where full disciplinary proceedings are unwarranted in view of the minor nature of the particular violation. Rather, the option to impose a minor rule sanction gives the Exchange additional flexibility to administer its enforcement program in the most effective and efficient manner while still fully meeting the Exchange's remedial objectives in addressing violative conduct. Specifically, the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because it will provide the Exchange the ability to issue a minor rule fine for violations of the CAT Compliance Rules under Chapter XVII where a more formal disciplinary action may not be warranted or appropriate consistent with the approach of other Plan Participants for the same conduct.

In connection with the fine level specified in the proposed rule change, adding language that minor rule fines for violations of the CAT Compliance Rules under Chapter XVII shall not exceed \$2,500 would further the goal of transparency and add clarity to the Exchange's rules. Adopting the same cap as FINRA for minor rule fines in connection with the CAT Compliance Rules would also promote regulatory consistency across self-regulatory organizations.

The Exchange further believes that the proposed amendments to Rule 1014 are consistent with Section 6(b)(6) of the Act,¹³ which provides that members and persons associated with members shall

⁷ FINRA's maximum fine for minor rule violations under FINRA Rule 9216(b) is \$2,500. The Exchange will apply an identical maximum fine amount for eligible violations of Chapter XVII to achieve consistency with FINRA and also to amend its minor rule violation plan ("MRVP") to include such fines. Like FINRA, the Exchange would be able to pursue a fine greater than \$2,500 for violations of Chapter XVII in a regular disciplinary proceeding or Letter of Consent under Rule 1003 as appropriate. Any fine imposed in excess of \$2,500 or not otherwise covered by Rule 19d-1(c)(2) of the Act would be subject to prompt notice to the Commission pursuant to Rule 19d-1 under the Act. As noted below, in assessing the appropriateness of a minor rule fine with respect to CAT Compliance Rules, the Exchange will be guided by the same factors that FINRA utilizes. See text accompanying notes 9-10, *infra*.

⁸ See Securities Exchange Act Release No. 88366 (March 12, 2020), 85 FR 15238 (March 17, 2020) (File No. 4-618).

⁹ See SR-FINRA-2020-013; see also FINRA Notice to Members 04-19 (March 2004) (providing specific factors used to inform dispositions for violations of OATS reporting rules).

¹⁰ See *id.*

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

¹³ 15 U.S.C. 78f(b)(6).

be appropriately disciplined for violation of the provisions of the rules of the exchange, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction. As noted, the proposed rule change would provide the Exchange ability to sanction minor or technical violations of Chapter XVII pursuant to the Exchange's rules.

Finally, the Exchange also believes that the proposed changes are designed to provide a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d) of the Act.¹⁴ Rule 1014 does not preclude a member or a person associated with or employed by a member from contesting an alleged violation and receiving a hearing on the matter with the same procedural rights through a litigated disciplinary proceeding.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues but rather is concerned solely with making the CAT Compliance Rules under Chapter XVII eligible for a minor rule fine disposition, thereby strengthening the Exchange's ability to carry out its oversight and enforcement functions and deter potential violative conduct.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-MIAX-2020-17 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-MIAX-2020-17. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MIAX-2020-17 and should be submitted on or before July 20, 2020.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁵ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁶ which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market

system, and, in general, to protect investors and the public interest. The Commission also believes that the proposal is consistent with Sections 6(b)(1) and 6(b)(6) of the Act¹⁷ which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. Finally, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d-1(c)(2) under the Act,¹⁸ which governs minor rule violation plans.

As stated above, the Exchange proposes to add the CAT Compliance Rules to the list of minor rule violations in Rule 1014 to be consistent with the approach FINRA has taken for minor violations of its corresponding CAT Compliance Rules.¹⁹ The Commission has already approved FINRA's treatment of CAT Compliance Rules violations when it approved the addition of CAT Compliance Rules to FINRA's MRVP.²⁰ As noted in that order, and similarly herein, the Commission believes that Exchange's treatment of CAT Compliance Rules violations as part of its MRVP provides a reasonable means of addressing violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. However, the Commission expects that, as with FINRA, the Exchange will continue to conduct surveillance with due diligence and make determinations based on its findings, on a case-by-case basis, regarding whether a sanction under the rule is appropriate, or whether a violation requires formal disciplinary action. Accordingly, the Commission believes the proposal raises no novel or significant issues.

For the same reasons discussed above, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,²¹ for approving the proposed rule

¹⁷ 15 U.S.C. 78f(b)(1) and 78f(b)(6).

¹⁸ 17 CFR 240.19d-1(c)(2).

¹⁹ As discussed above, the Exchange has entered into a Rule 17d-2 Plan and an RSA with FINRA with respect to the CAT Compliance Rules. The Commission notes that, unless relieved by the Commission of its responsibility, as may be the case under the Rule 17d-2 Plan, the Exchange continues to bear the responsibility for self-regulatory conduct and liability for self-regulatory failures, not the self-regulatory organization retained to perform regulatory functions on the Exchange's behalf pursuant to an RSA. See Securities Exchange Release No. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR-BATS-2009-031), note 93 and accompanying text.

²⁰ See *supra* note 3.

²¹ 15 U.S.C. 78s(b)(2).

¹⁴ 15 U.S.C. 78f(b)(7) and 78f(d).

¹⁵ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁶ 15 U.S.C. 78f(b)(5).

change prior to the thirtieth day after the date of publication of the notice of the filing thereof in the **Federal Register**. The proposal merely adds the CAT Compliance Rules to the Exchange's MRVP and harmonizes its application with FINRA's application of CAT Compliance Rules under its own MRVP. Accordingly, the Commission believes that a full notice-and-comment period is not necessary before approving the proposal.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act²² and Rule 19d-1(c)(2) thereunder,²³ that the proposed rule change (SR-MIAX-2020-17) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020-13878 Filed 6-26-20; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89123; File No. SR-NYSE-2020-51]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change To Add the Consolidated Audit Trail Industry Member Compliance Rules to the List of Minor Rule Violations

June 23, 2020.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act")² and Rule 19b-4 thereunder,³ notice is hereby given that, on June 12, 2020, New York Stock Exchange LLC ("NYSE" 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 and approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add the Consolidated Audit Trail ("CAT") industry member compliance rules to the list of minor rule violations in Rule 9217. The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to add NYSE's CAT industry member compliance rules (the "CAT Compliance Rules") to the list of minor rule violations in Rule 9217. This proposal is based upon the Financial Industry Regulatory Authority, Inc. ("FINRA") filing to amend FINRA Rule 9217 in order to add FINRA's corresponding CAT Compliance Rules to FINRA's list of rules that are eligible for minor rule violation plan treatment.⁴

Proposed Rule Change

The Exchange recently adopted the CAT Compliance Rules in the Rule 6800 Series in order to implement the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan" or "Plan").⁵ The CAT NMS Plan was filed by the Plan Participants to comply with Rule 613 of Regulation NMS under the Exchange Act,⁶ and each Plan Participant accordingly has adopted the same compliance rules in the Exchange's Rule 6800 Series. The

common compliance rules adopted by each Plan Participant are designed to require industry members to comply with the provisions of the CAT NMS Plan, which broadly calls for industry members to record and report timely and accurately customer, order, and trade information relating to activity in NMS Securities and OTC Equity Securities.

Rule 9217 sets forth the list of rules under which a member organization or covered person may be subject to a fine under Rule 9216(b). Rule 9217 permits the Exchange to impose a fine of up to \$5,000 on any member or covered person for a minor violation of an eligible rule. The Exchange proposes to amend Rule 9217 to add the CAT Compliance Rules in the Rule 6800 Series to the list of rules in Rule 9217 eligible for disposition pursuant to a minor fine under Rule 9216(b).⁷

The Exchange is coordinating with FINRA and other Plan Participants to promote harmonized and consistent enforcement of all the Plan Participants' CAT Compliance Rules. The Commission recently approved a Rule 17d-2 Plan under which the regulation of CAT Compliance Rules will be allocated among Plan Participants to reduce regulatory duplication for industry members that are members of more than one Participant ("common members").⁸ Under the Rule 17d-2 Plan, the regulation of CAT Compliance Rules with respect to common members that are members of FINRA is allocated to FINRA. Similarly, under the Rule 17d-2 Plan, responsibility for common members of multiple other Plan Participants and not a member of FINRA will be allocated among those other Plan Participants, including to the Exchange. For those non-common members who are allocated to NYSE pursuant to the Rule 17d-2 Plan, the Exchange and FINRA entered into a Regulatory

⁷ FINRA's maximum fine for minor rule violations under FINRA Rule 9216(b) is \$2,500. The Exchange will apply an identical maximum fine amount for eligible violations of the Rule 6800 Series to achieve consistency with FINRA and also to amend its minor rule violation plan ("MRVP") to include such fines. Like FINRA, the Exchange would be able to pursue a fine greater than \$2,500 for violations of the Rule 6800 Series in a regular disciplinary proceeding or an acceptance, waiver, and consent ("AWC") under the Rule 9000 Series as appropriate. Any fine imposed in excess of \$2,500 or not otherwise covered by Rule 19d-1(c)(2) of the Act would be subject to prompt notice to the Commission pursuant to Rule 19d-1 under the Act. As noted below, in assessing the appropriateness of a minor rule fine with respect to CAT Compliance Rules, the Exchange will be guided by the same factors that FINRA utilizes. See text accompanying notes 9-10, *infra*.

⁸ See Securities Exchange Act Release No. 88366 (March 12, 2020), 85 FR 15238 (March 17, 2020) (File No. 4-618).

²² 15 U.S.C. 78s(b)(2).

²³ 17 CFR 240.19d-1(c)(2).

²⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ See Securities Exchange Act Release No. 88870 (May 14, 2020), 85 FR 30768 (May 20, 2020) (SR-FINRA-2020-013).

⁵ See Securities Exchange Act Release No. 79907 (January 31, 2017), 82 FR 9413 (February 6, 2017) (SR-NYSE-2017-01).

⁶ 17 CFR 242.613.

Services Agreement (“RSA”) pursuant to which FINRA will conduct surveillance, investigation, examination, and enforcement activity in connection with the CAT Compliance Rules on the Exchange’s behalf (with the exception of such matters once a complaint is filed, which in such instance is no longer administered through the MRVP). We expect that the other exchanges would be entering into a similar RSA.

In order to achieve consistency with FINRA and the other Plan Participants, the Exchange proposes to adopt fines up to \$2,500 in connection with minor rule fines for violations of the CAT Compliance Rules in the Rule 6800 Series under Rule 9217 and the Exchange’s MRVP.

FINRA, in connection with its proposed amendment to FINRA Rule 9217 to make FINRA’s CAT Compliance Rules MRVP eligible, has represented that it will apply the minor fines for CAT Compliance Rules in the same manner that FINRA has for its similar existing audit trail-related rules.⁹ Accordingly, in order to promote regulatory consistency, the Exchange plans to do the same. Specifically, application of a minor rule fine with respect to CAT Compliance Rules will be guided by the same factors that FINRA referenced in its filing. However, more formal disciplinary proceedings may be warranted instead of minor rule dispositions in certain circumstances such as where violations prevent regulatory users of the CAT from performing their regulatory functions. Where minor rule dispositions are appropriate, the following factors help guide the determination of fine amounts:

- Total number of reports that are not submitted or submitted late;
- The timeframe over which the violations occur;
- Whether violations are batched;
- Whether the violations are the result of the actions of one individual or the result of faulty systems or procedures;
- Whether the firm has taken remedial measures to correct the violations;
- Prior minor rule violations within the past 24 months;
- Collateral effects that the failure has on customers; and
- Collateral effects that the failure has on the Exchange’s ability to perform its regulatory function.¹⁰

⁹ See SR-FINRA-2020-013; see also FINRA Notice to Members 04-19 (March 2004) (providing specific factors used to inform dispositions for violations of OATS reporting rules).

¹⁰ See *id.*

Upon effectiveness of this rule change, the Exchange will publish a regulatory bulletin notifying its member organizations of the rule change and the specific factors that will be considered in connection with assessing minor rule fines described above.

For the foregoing reasons, the Exchange believes that the proposed rule change will result in a coordinated, harmonized approach to CAT compliance rule enforcement across Plan Participants that will be consistent with the approach FINRA has taken with the CAT rules.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,¹¹ in general, and furthers the objectives of Section 6(b)(5),¹² in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

Minor rule fines provide a meaningful sanction for minor or technical violations of rules when the conduct at issue does not warrant stronger, immediately reportable disciplinary sanctions. The inclusion of a rule in the Exchange’s MRVP does not minimize the importance of compliance with the rule, nor does it preclude the Exchange from choosing to pursue violations of eligible rules through an AWC if the nature of the violations or prior disciplinary history warrants more significant sanctions. Rather, the Exchange believes that the proposed rule change will strengthen the Exchange’s ability to carry out its oversight and enforcement responsibilities in cases where full disciplinary proceedings are unwarranted in view of the minor nature of the particular violation. Rather, the option to impose a minor rule sanction gives the Exchange additional flexibility to administer its enforcement program in the most effective and efficient manner while still fully meeting the Exchange’s remedial objectives in addressing violative conduct. Specifically, the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because it will provide the

Exchange the ability to issue a minor rule fine for violations of the CAT Compliance Rules in the Rule 6800 Series where a more formal disciplinary action may not be warranted or appropriate consistent with the approach of other Plan Participants for the same conduct.

In connection with the fine level specified in the proposed rule change, adding language that minor rule fines for violations of the CAT Compliance Rules in the Rule 6800 Series shall not exceed \$2,500 would further the goal of transparency and add clarity to the Exchange’s rules. Adopting the same cap as FINRA for minor rule fines in connection with the CAT Compliance Rules would also promote regulatory consistency across self-regulatory organizations.

The Exchange further believes that the proposed amendments to Rule 9217 are consistent with Section 6(b)(6) of the Act,¹³ which provides that members and persons associated with members shall be appropriately disciplined for violation of the provisions of the rules of the exchange, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction. As noted, the proposed rule change would provide the Exchange ability to sanction minor or technical violations of the Rule 6800 Series pursuant to the Exchange’s rules.

Finally, the Exchange also believes that the proposed changes are designed to provide a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d) of the Act.¹⁴ Rule 9217 does not preclude a member organization or covered person from contesting an alleged violation and receiving a hearing on the matter with the same procedural rights through a litigated disciplinary proceeding.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues but rather is concerned solely with making the CAT Compliance Rules in the Rule 6800 Series eligible for a minor rule fine disposition, thereby strengthening the Exchange’s ability to carry out its

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

¹³ 15 U.S.C. 78f(b)(6).

¹⁴ 15 U.S.C. 78f(b)(7) and 78f(d).

oversight and enforcement functions and deter potential violative conduct.

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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSE-2020-51 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to File Number SR-NYSE-2020-51. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish

to make available publicly. All submissions should refer to File Number SR-NYSE-2020-51 and should be submitted on or before July 20, 2020.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁵ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁶ which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission also believes that the proposal is consistent with Sections 6(b)(1) and 6(b)(6) of the Act¹⁷ which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. Finally, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d-1(c)(2) under the Act,¹⁸ which governs minor rule violation plans.

As stated above, the Exchange proposes to add the CAT Compliance Rules to the list of minor rule violations in Rule 9217 to be consistent with the approach FINRA has taken for minor violations of its corresponding CAT Compliance Rules.¹⁹ The Commission has already approved FINRA's treatment of CAT Compliance Rules violations when it approved the addition of CAT Compliance Rules to FINRA's MRVP.²⁰ As noted in that order, and similarly

herein, the Commission believes that Exchange's treatment of CAT Compliance Rules violations as part of its MRVP provides a reasonable means of addressing violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. However, the Commission expects that, as with FINRA, the Exchange will continue to conduct surveillance with due diligence and make determinations based on its findings, on a case-by-case basis, regarding whether a sanction under the rule is appropriate, or whether a violation requires formal disciplinary action. Accordingly, the Commission believes the proposal raises no novel or significant issues.

For the same reasons discussed above, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,²¹ for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of the filing thereof in the **Federal Register**. The proposal merely adds the CAT Compliance Rules to the Exchange's MRVP and harmonizes its application with FINRA's application of CAT Compliance Rules under its own MRVP. Accordingly, the Commission believes that a full notice-and-comment period is not necessary before approving the proposal.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act²² and Rule 19d-1(c)(2) thereunder,²³ that the proposed rule change (SR-NYSE-2020-51) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020-13868 Filed 6-26-20; 8:45 am]

BILLING CODE 8011-01-P

¹⁵ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁶ 15 U.S.C. 78f(b)(5).

¹⁷ 15 U.S.C. 78f(b)(1) and 78f(b)(6).

¹⁸ 17 CFR 240.19d-1(c)(2).

¹⁹ As discussed above, the Exchange has entered into a Rule 17d-2 Plan and an RSA with FINRA with respect to the CAT Compliance Rules. The Commission notes that, unless relieved by the Commission of its responsibility, as may be the case under the Rule 17d-2 Plan, the Exchange continues to bear the responsibility for self-regulatory conduct and liability for self-regulatory failures, not the self-regulatory organization retained to perform regulatory functions on the Exchange's behalf pursuant to an RSA. See Securities Exchange Release No. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR-BATS-2009-031), note 93 and accompanying text.

²⁰ See *supra* note 4.

²¹ 15 U.S.C. 78s(b)(2).

²² 15 U.S.C. 78s(b)(2).

²³ 17 CFR 240.19d-1(c)(2).

²⁴ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89128; File No. SR–CBOE–2020–053]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 6.1 in Order To Provide for a Consistent Documentation of Open Outcry Execution Information in the Event of an Exchange System Malfunction or Disruption

June 23, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on June 10, 2020, Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) 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 Act³ and Rule 19b–4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.1 in order to provide for a consistent documentation of open outcry execution information in the event of an Exchange system malfunction or disruption.

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

The Exchange proposes to amend Rule 6.1 in order to provide for a consistent documentation of open outcry execution information in the event of an Exchange system malfunction or disruption.

Specifically, Rule 6.1(a) requires that a Trading Permit Holder (“TPH”) in each transaction to be designated by the Exchange must report or ensure the transaction is reported to the Exchange within 90 seconds of the execution in a form and manner prescribed by the Exchange so that the trade information may be reported to time and sales reports.⁵ Pursuant to Rule 6.1(c)(1), the seller (or buyer if designated by the Exchange) must submit the transaction report through an electronic data transmission link approved by the Exchange in order to fulfill the Rule 6.1(a) reporting requirement.

Additionally, Rule 6.1(c) provides that participants (both the buyer and the seller) must immediately record on a card or ticket or enter in an electronic data storage medium acceptable to the Exchange certain requisite transaction information. Such transaction information includes, among other things, the time of the transaction obtained from a source designated by the Exchange,⁶ and must be included in the transaction report. Currently, TPHs submit transaction reports through Public Automated Routing System (“PAR”)⁷ workstations. In practice, generally, when an order is executed in open outcry, a participant nearly contemporaneously with the execution enters the requisite trade information into a PAR workstation, including the transaction time and presses a “trade” button, which both reports the trade to the Exchange and constitutes the entry of requisite trade information in an electronic data storage medium pursuant to Rule 6.1(c).

Rule 6.1(a) currently allows for designated late reporting, however, a

pattern or practice of late reporting without exceptional circumstances may be considered conduct inconsistent with just and equitable principles of trade and subject to fines or discipline under Exchange Rules.⁸ Therefore, in the event an Exchange system experiences a malfunction or disruption so that a participant is unable to electronically submit the requisite transaction information and report open outcry transaction information within the 90 second window (*i.e.* an “outage”), a late reporting designation is considered acceptable and the participant is able to electronically submit the trade information and simultaneously report the transaction upon resolution of the malfunction or disruption and resumption of the impacted Exchange system. Although pursuant to Rule 6.1(c), a participant is able to record the transaction information on a card or ticket, and may currently do so in the case of an outage (and following the outage is then able to electronically enter the trade information and submit the transaction report), the Exchange Rules do not currently provide for a specific manner and form in which a participant should report transaction information, including the transaction time, in the event that an outage impedes a participant’s ability to submit an electronic transaction record within the required time period.⁹ As such, the Exchange now proposes to amend Rule 6.1(a) to provide additional clarity and consistency regarding the documentation and submission of transaction reports for open outcry executions that occur during an outage.

Specifically, the proposed change adopts subparagraph (a)(2)¹⁰ to Rule 6.1, which provides that in the event of an Exchange system malfunction or disruption such that a participant is unable to electronically report trade information pursuant to subparagraph (c) of Rule 6.1 for orders executed in open outcry (an “outage”), a participant

⁸ See also Rule 6.1(j)(2), which provides that in the event a Clearing Trading Permit Holder attempts to send trade information by electronic transmission but is unable to get through to the Exchange computer system, the Clearing Trading Permit Holder may contact the Exchange’s Trade Desk Department to inquire if the Exchange’s system is ready to receive such Clearing Trading Permit Holder’s transmission.

⁹ In connection with past outages, participants have reported this information to the Exchange, but have done so in different manners. The proposed rule change will require participants to report this information to the Exchange in the same manner as designated by the Exchange.

¹⁰ The proposed change also separates the late reporting provisions in current Rule 6.1(a) into subparagraph (a)(1) (and titles the proposed subparagraph “Late Reports”) for formatting consistency and ease of reading and following Rule 6.1(a) generally.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b–4(f)(6).

⁵ The Exchange notes that for trades executed electronically through the System, trade information is immediately submitted to the Exchange so that it may be reported to the tape.

⁶ The Exchange notes that there are universal clocks on the trading floor which brokers may use when recording outage reports.

⁷ See Rule 5.82.

will record execution information, including the transaction time, for orders executed in open outcry in a manner and form determined by the Exchange. Upon the resolution of the outage, a participant must resume electronic submission of transaction reports within the 90 second time frame and must use best efforts to input electronically into the Exchange's system the execution information required by subparagraph (c) of Rule 6.1 for the order(s) executed in open outcry during the outage not later than the close of business on the day that the malfunction or disruption ceases.

By providing that the Exchange determines the manner and form that participants must report transaction information for executions that occur during an outage,¹¹ the proposed rule change will provide for consistency among all participants with respect to their electronic submission of transaction reports to the Exchange after the system malfunction or disruption is resolved. The proposed rule will also provide additional clarity in the Rules regarding the procedure participants must use to submit transaction information to the Exchange following the resolution of an outage. A uniform approach will also provide for more consistency of information in the Exchange's audit trail.

The Exchange also notes that a similar process is currently in place pursuant to the Exchange Rules in the event of a malfunction or disruption of the Exchange's systems such that a Trading Permit Holder is unable to systematize an order, wherein each order transmitted to the Exchange during a malfunction or disruption of the Exchange's systems must be recorded legibly in a written form that has been approved by the Exchange,¹² and the Trading Permit Holder receiving such order must record the time of its receipt on the floor and legibly record the terms of the order, in written form.¹³ Such rules also permit the retroactive entry of order receipt information following the cessation of the malfunction or disruption.

¹¹ Pursuant to Rule 1.5, the Exchange will announce its determination of the manner and form via: (1) Specifications, Notices, or Regulatory Circulars with appropriate advanced notice, which are posted on the Exchange's website, or as otherwise provided in the Rules; (2) electronic message; or (3) other communication method as provided in the Rules.

¹² The Exchange notes that a legible record is a manner in which it intends to determine that a participant will be required to record execution information upon an outage, as proposed.

¹³ See Rule 5.7(f)(2)(C)(i).

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.¹⁴ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁵ 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)¹⁶ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, by requiring participants to report open outcry transaction information for orders executed during an outage in a specific manner and form determined by the Exchange, the Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and national market system and help to ensure the maintenance of a fair and orderly market, thereby protecting investors, as it provides for consistency and additional clarity regarding the documentation and form of submission of transaction information for open outcry executions that occur during an outage, and the form of the reports of that information to the Exchange following resolution of the outage. The Exchange further believes the proposed rule change may prevent fraudulent and manipulative acts and otherwise promote just and equitable principles of trade. Particularly, the proposed rule change will require a uniform approach to the documentation and reporting procedures of transaction information for orders executed during an outage, which will provide for consistency in the Exchange's audit trail.

The Exchange does not believe that documentation of certain trade information in a manner and form determined by the Exchange and the

procedure regarding retroactive submission of certain trade information in the event of a system malfunction or disruption would present any new or novel issues or reporting policies for participants, as similar procedures are already in place under the Exchange Rules in the event a system malfunction or disruption results in participants' inability to systematize their orders upon receipt.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it would apply equally to all participants. In addition, the Exchange does not believe that 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 because the proposed rule change is not competitive in nature nor does it relate to trading on the Exchange. Rather, it relates solely to the manner and form of reporting transaction information to the Exchange in outage scenarios.

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 Act¹⁷ and Rule 19b-4(f)(6) thereunder.¹⁸

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires 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.

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(5).

¹⁶ *Id.*

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹⁹ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)²⁰ 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 consistent with the protection of investors and the public interest because it is substantially similar to the process that is currently in place pursuant to the Exchange Rule 5.7²¹ in the event of a malfunction or disruption of the Exchange's systems such that a Trading Permit Holder is unable to systematize an order. The Exchange notes that wherein each order transmitted to the Exchange during a malfunction or disruption of the Exchange's systems must be recorded legibly in a written form that has been approved by the Exchange, and the Trading Permit Holder receiving such order must record the time of its receipt on the floor and legibly record the terms of the order, in written form. The Exchange states that the proposed rule change merely requires participants currently report transaction information to the Exchange with respect to orders executed during an outage, and to continue to do so in a uniform manner. For this reason, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change does not modify the information that participants must report, nor does it change how open outcry trading will occur. The Commission believes the proposed rule change will provide consistency and clarity in the Cboe Rules regarding how to report transaction information to the Exchange in the event of an outage, which will benefit investors. Waiver of the operative delay will also permit the Exchange to implement the proposed rule change in connection with the current proposed reopening of its trading floor on June 15, 2020. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.²²

¹⁹ 17 CFR 240.19b-4(f)(6).

²⁰ 17 CFR 240.19b-4(f)(6)(iii).

²¹ See *supra* note 13.

²² 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).

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CBOE-2020-053 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to File Number SR-CBOE-2020-053. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are

cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2020-053 and should be submitted on or before July 20, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2020-13872 Filed 6-26-20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89134; File No. SR-CboeBZX-2020-052]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend Certain Rules Within Rules 4.5 Through 4.16, Which Contain the Exchange's Compliance Rule ("Compliance Rule") Regarding the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan" or "Plan")

June 23, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 22, 2020, Cboe BZX Exchange, Inc. ("Exchange" or "BZX") 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

Cboe BZX Exchange, Inc. (the "Exchange" or "Cboe BZX") proposes to amend certain Rules within Rules 4.5 through 4.16, which contain the Exchange's compliance rule ("Compliance Rule") regarding the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan" or "Plan") The text of the proposed rule change is provided in Exhibit 5.

²³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend the Consolidated Audit Trail ("CAT") Compliance Rule in Rules 4.5 through 4.16 to be consistent with certain proposed amendments to and exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems. As described more fully below, the proposed rule change would make the following changes to the Compliance Rule:

- Add additional data elements to the consolidated audit trail ("CAT") reporting requirements for Industry Members to facilitate the retirement of the Financial Industry Regulatory Authority, Inc.'s ("FINRA") Order Audit Trail System ("OATS");

- Add additional data elements related to OTC Equity Securities that FINRA currently receives from alternative trading systems ("ATSs") that trade OTC Equity Securities for regulatory oversight purposes to the CAT reporting requirements for Industry Members;

- Implement a phased approach for Industry Member reporting to the CAT ("Phased Reporting");

- To the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, revise the timestamp granularity requirement to require such Industry Member to record and report Industry

Member Data to the Central Repository with time stamps in such finer increment up to nanoseconds;

- Require Introducing Industry Members (as defined below) to comply with the requirements of the CAT NMS Plan applicable to Small Industry Members;

- Revise the CAT reporting requirements so Industry Members would not be required to report to the Central Repository dates of birth, "individual tax payer identification number ("ITIN")/social security number ("SSN")" (collectively, referred to as "SSNs") or account numbers; and

- Revise the CAT reporting requirements regarding cancelled trades and SRO-Assigned Market Participant Identifiers of clearing brokers, if applicable, in connection with order executions, as such information will be available from FINRA's trade reports submitted to the CAT.

i. CAT-OATS Data Gaps

The Participants have worked to identify gaps between data reported to existing systems and data to be reported to the CAT to "ensure that by the time Industry Members are required to report to the CAT, the CAT will include all data elements necessary to facilitate the rapid retirement of duplicative systems."³ As a result of this process, the Participants identified several data elements that must be included in the CAT reporting requirements before existing systems can be retired. In particular, the Participants identified certain data elements that are required by OATS, but not currently enumerated in the CAT NMS Plan. Accordingly, the Exchange proposes to amend its Compliance Rule to include these OATS data elements in the CAT. Each of such OATS data elements are discussed below. With the addition of these OATS data elements to the CAT, the CAT will have the data elements necessary to retire OATS.

A. Information Barrier Identification

The FINRA OATS rules require OATS Reporting Members⁴ to record the identification of information barriers for certain order events, including when an order is received or originated, transmitted to a department within the OATS Reporting Member, and when it

is modified. The Participants propose to amend the Compliance Rule to incorporate these requirements into the CAT.

Specifically, FINRA Rule 7440(b)(20) requires a FINRA OATS Reporting Member to record the following when an order is received or originated: "if the member is relying on the exception provided in Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member where the order was received or originated."⁵ The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS-CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(vii) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for original receipt or origination of an order, "the unique identification of any appropriate information barriers in place at the department within the Industry Member where the order was received or originated."

In addition, FINRA Rule 7440(c)(1) states that "[w]hen a Reporting Member transmits an order to a department within the member, the Reporting Member shall record: . . . (H) if the member is relying on the exception provided in Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member to which the order was transmitted." The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS-CAT data gap, the Exchange proposes to revise paragraph (a)(1)(B)(vi) of Rule 4.7 to require, for the routing of an order, if routed internally at the Industry Member, "the unique identification of any appropriate information barriers in place at the department within the Industry Member to which the order was transmitted."

FINRA Rule 7440(c)(2)(B) and 7440(c)(4)(B) require an OATS Reporting Member that receives an order transmitted from another member to report the unique identification of any appropriate information barriers in place at the department within the member to which the order was transmitted. The Compliance Rule not require Industry Members to report such information barrier information. To address this OATS-CAT data gap, the Exchange proposes to add new

³ Letter from Participants to Brent J. Fields, Secretary, SEC, re: File Number 4-698; Notice of Filing of the National Market System Plan Governing the Consolidated Audit Trail (September 23, 2016) at 21 ("Participants' Response to Comments") (available at <https://www.sec.gov/comments/4-698/4698-32.pdf>).

⁴ An OATS "Reporting Member" is defined in FINRA Rule 7410(o).

⁵ FINRA Rule 5320 prohibits trading ahead of customer orders.

paragraph (a)(1)(C)(vii) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for the receipt of an order that has been routed, “the unique identification of any appropriate information barriers in place at the department within the Industry Member which received the order.”

FINRA Rule 7440(d)(1) requires an OATS Reporting Member that modifies or receives a modification to the terms of an order to report the unique identification of any appropriate information barriers in place at the department within the member to which the modification was originated or received. The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(D)(vii) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, if the order is modified or cancelled, “the unique identification of any appropriate information barriers in place at the department within the Industry Member which received or originated the modification.”

B. Reporting Requirements for ATSs

Under FINRA Rule 4554, ATSs that receive orders in NMS stocks are required to report certain order information to OATS, which FINRA uses to reconstruct ATS order books and perform order-based surveillance, including layering, spoofing, and mid-point pricing manipulation surveillance.⁶ The Participants believe that Industry Members operating ATSs—whether such ATS trades NMS stocks or OTC Equity Securities—should likewise be required to report this information to the CAT. Because ATSs that trade NMS stocks are already recording this information and reporting it to OATS, the Participants believe that reporting the same information to the CAT should impose little burden on these ATSs. Moreover, including this information in the CAT is also necessary for FINRA to be able to retire the OATS system. The Participants similarly believe that obtaining the same information from ATSs that trade OTC Equity Securities will be important for purposes of reconstructing ATS order books and surveillance. Accordingly, the Exchange proposes to add to the data reporting requirements in the Compliance Rule the reporting requirements for ATSs in FINRA Rule

4554,⁷ but to expand such requirements so that they are applicable to all ATSs rather than solely to ATSs that trade NMS stocks.

(i) New Definition

The Exchange proposes to add a definition of “ATS” to new paragraph (d) of Rule 4.5 to facilitate the addition to the CAT of the reporting requirements for ATSs set forth in FINRA Rule 4554. The Exchange proposes to define an “ATS” to mean “an alternative trading system, as defined in Rule 300(a)(1) of Regulation ATS under the Exchange Act.”

(ii) ATS Order Type

FINRA Rule 4554(b)(5) requires the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

A unique identifier for each order type offered by the ATS. An ATS must provide FINRA with (i) a list of all of its order types 20 days before such order types become effective and (ii) any changes to its order types 20 days before such changes become effective. An identifier shall not be required for market and limit orders that have no other special handling instructions.

The Compliance Rule does not require Industry Members to report such order type information to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate these requirements into four new provisions to the Compliance Rule: Paragraphs (a)(1)(A)(xi)(a), (a)(1)(C)(x)(a), (a)(1)(D)(ix)(a) and (a)(2)(D) of Rule 4.7.

Proposed paragraph (a)(1)(A)(xi)(a) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository for the original receipt or origination of an order “the ATS’s unique identifier for the order type of the order.” Proposed paragraph (a)(1)(C)(x)(a) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository for the receipt of an order that has been routed “the

ATS’s unique identifier for the order type of the order.” Proposed paragraph (a)(1)(D)(ix)(a) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository if the order is modified or cancelled “the ATS’s unique identifier for the order type of the order.” Furthermore, as with the requirements in FINRA Rule 4554(b)(5), proposed paragraph (a)(2)(D) of Rule 4.7 would state that:

An Industry Member that operates an ATS must provide to the Central Repository: (1) A list of all of its order types twenty (20) days before such order types become effective; and (2) any changes to its order types twenty (20) days before such changes become effective. An identifier shall not be required for market and limit orders that have no other special handling instructions.

(iii) National Best Bid and Offer

FINRA Rules 4554(b)(6) and (7) require the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

(6) The NBBO (or relevant reference price) in effect at the time of order receipt and the timestamp of when the ATS recorded the effective NBBO (or relevant reference price); and

(7) Identification of the market data feed used by the ATS to record the NBBO (or other reference price) for purposes of subparagraph (6). If for any reason, the ATS uses an alternative feed than what was reported on its ATS data submission, the ATS must notify FINRA of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Similarly, FINRA Rule 4554(c) requires the following information to be recorded and reported to FINRA by ATSs when reporting the execution of an order to OATS:

(1) The NBBO (or relevant reference price) in effect at the time of order execution;

(2) The timestamp of when the ATS recorded the effective NBBO (or relevant reference price); and

(3) Identification of the market data feed used by the ATS to record the NBBO (or other reference price) for purposes of subparagraph (1). If for any reason, the ATS uses an alternative feed than what was reported on its ATS data submission, the ATS must notify FINRA of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and

⁶ See FINRA Regulatory Notice 16–28 (August 2016).

⁷ FINRA Rule 4554 was approved by the SEC on May 10, 2016, while the CAT NMS Plan was pending with the Commission. See Securities Exchange Act Release No. 77798 (May 10, 2016), 81 FR 30395 (May 16, 2016) (Order Approving SR–FINRA–2016–010). As noted in the Participants’ Response to Comments, throughout the process of developing the Plan, the Participants worked to keep the gap analyses for OATS, electronic blue sheets, and the CAT up-to-date, which included adding data fields related to the tick size pilot and ATS order book amendments to the OATS rules. See Participants’ Response to Comments at 21. However, due to the timing of the expiration of the tick size pilot, the Participants decided not to include those data elements into the CAT NMS Plan.

securities for which the alternative source was used.

The Compliance Rule does not require Industry Members to report such NBBO information to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate these requirements into four new provisions to the Compliance Rule: (a)(1)(A)(xi)(b)–(c), (a)(1)(C)(x)(b)–(c), (a)(1)(D)(ix)(b)–(c) and (a)(1)(E)(viii)(a)–(b) of Rule 4.7.

Specifically, proposed paragraph (a)(1)(A)(xi)(b)–(c) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository the following information when reporting the original receipt or origination of order:

(2) The National Best Bid and National Best Offer (or relevant reference price) at the time of order receipt or origination, and the date and time at which the ATS recorded such National Best Bid and National Best Offer (or relevant reference price);

(3) the identification of the market data feed used by the ATS to record the National Best Bid and National Best Offer (or relevant reference price) for purposes of subparagraph (xi)(b). If for any reason the ATS uses an alternative market data feed than what was reported on its ATS data submission, the ATS must provide notice to the Central Repository of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Similarly, proposed paragraphs (a)(1)(C)(x)(b)–(c), (a)(1)(D)(ix)(b)–(c) and (a)(1)(E)(viii)(a)–(b) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository the same information when reporting receipt of an order that has been routed, when reporting if the order is modified or cancelled, and when an order has been executed, respectively.

(iv) Sequence Numbers

FINRA Rule 4554(d) states that “[f]or all OATS-reportable event types, all ATSs must record and report to FINRA the sequence number assigned to the order event by the ATS’s matching engine.” The Compliance Rule does not require Industry Members to report ATS sequence numbers to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate this requirement regarding ATS sequence numbers into each of the Reportable Events for the CAT.

Specifically, the Exchange proposes to add proposed paragraph (a)(1)(A)(xi)(d) to Rule 4.7, which would require an

Industry Member that operates an ATS to record and report to the Central Repository “the sequence number assigned to the receipt or origination of the order by the ATS’s matching engine.” The Exchange proposes to add proposed paragraph (a)(1)(B)(viii) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository “the sequence number assigned to the routing of the order by the ATS’s matching engine.” The Exchange also proposes to add proposed paragraph (a)(1)(C)(x)(d) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository “the sequence number assigned to the receipt of the order by the ATS’s matching engine.” In addition, the Exchange proposes to add proposed paragraph (a)(1)(D)(ix)(d) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository “the sequence number assigned to the modification or cancellation of the order by the ATS’s matching engine.” Finally, the Exchange proposes to add proposed paragraph (a)(1)(E)(viii)(c) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository “the sequence number assigned to the execution of the order by the ATS’s matching engine.”

(v) Modification or Cancellation of Orders by ATSs

FINRA Rule 4554(f) states that “[f]or an ATS that displays subscriber orders, each time the ATS’s matching engine re-prices a displayed order or changes the display quantity of a displayed order, the ATS must report to OATS the time of such modification,” and “the applicable new display price or size.” The Exchange proposes adding a comparable requirement into new paragraph (a)(1)(D)(ix)(e) to Rule 4.7. Specifically, proposed new paragraph (a)(1)(D)(ix)(e) of Rule 4.7 would require an Industry Member that operates an ATS to report to the Central Repository, if the order is modified or cancelled, “each time the ATS’s matching engine re-prices an order or changes the quantity of an order,” the ATS must report to the Central Repository “the time of such modification, and the applicable new price or size.” Proposed paragraph (a)(1)(D)(ix)(e) of Rule 4.7 would apply to all ATSs, not just ATSs that display orders.

(vi) Display of Subscriber Orders

FINRA Rule 4554(b)(1) requires the following information to be recorded

and reported to FINRA by ATSs when reporting receipt of an order to OATS:

Whether the ATS displays subscriber orders outside the ATS (other than to alternative trading system employees). If an ATS does display subscriber orders outside the ATS (other than to alternative trading system employees), indicate whether the order is displayed to subscribers only or through publicly disseminated quotation data);

The Compliance Rule does not require Industry Members to report to the CAT such information about the displaying of subscriber orders. The Exchange proposes to add comparable requirements into proposed paragraphs (a)(1)(A)(xi)(e) and (a)(1)(C)(x)(e) of Rule 4.7. Specifically, proposed paragraph (a)(1)(A)(xi)(e) would require an Industry Member that operates an ATS to report to the Central Repository, for the original receipt or origination of an order, whether the ATS displays subscriber orders outside the ATS (other than to alternative trading system employees). If an ATS does display subscriber orders outside the ATS (other than to alternative trading system employees), indicate whether the order is displayed to subscribers only or through publicly disseminated quotation data.

Similarly, proposed paragraph (a)(1)(C)(x)(e) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository the same information when reporting receipt of an order that has been routed.

C. Customer Instruction Flag

FINRA Rule 7440(b)(14) requires a FINRA OATS Reporting Member to record the following when an order is received or originated: “any request by a customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.” The Compliance Rule does not require Industry Members to report to the CAT such a customer instruction flag. To address this OATS–CAT data gap, the Exchange proposes to add paragraph (a)(1)(A)(viii) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for original receipt or origination of an order, “any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.” The Exchange also proposes to add paragraph (a)(1)(C)(ix) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for the receipt of an order that has been routed, “any request by a Customer that a limit order

not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.”

FINRA Rule 7440(d)(1) requires an OATS Reporting Member that modifies or receives a modification of an order to report the customer instruction flag. The Compliance Rule does not require Industry Members to report such a customer instruction flag. To address this OATS–CAT data gap, the Exchange proposes to add paragraph (a)(1)(D)(viii) to Rule 4.7 which would require Industry Members to record and report to the Central Repository, if the order is modified or cancelled, “any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.”

D. Department Type

FINRA Rules 7440(b)(4) and (5) require an OATS Reporting Member that receives or originates an order to record the following information: “the identification of any department or the identification number of any terminal where an order is received directly from a customer” and “where the order is originated by a Reporting Member, the identification of the department of the member that originates the order.” The Compliance Rule does not require Industry Members to report to the CAT information regarding the department or terminal where the order is received or originated. To address this OATS–CAT data gap, the Exchange proposes to add paragraph (a)(1)(A)(ix) to Rule 4.7, which would require Industry Members to record and report to the Central Repository upon the original receipt or origination of an order “the nature of the department or desk that originated the order, or received the order from a Customer.”

Similarly, per FINRA Rules 7440(c)(2)(B) and (4)(B), when an OATS Reporting Member receives an order that has been transmitted by another Member, the receiving OATS Reporting Member is required to record the information required in 7440(b)(4) and (5) described above as applicable. The Compliance Rule does not require Industry Members to report to the CAT information regarding the department that received an order. To address this OATS–CAT data gap, the Exchange propose to add paragraph (a)(1)(C)(viii) to Rule 4.7 which would require Industry Members to record and report to the Central Repository upon the receipt of an order that has been routed “the nature of the department or desk that received the order.”

E. Account Holder Type

FINRA Rule 7440(b)(18) requires an OATS Reporting Member that receives or originates an order to record the following information: “the type of account, *i.e.*, retail, wholesale, employee, proprietary, or any other type of account designated by FINRA, for which the order is submitted.” The Compliance Rule does not require Industry Members to report to the CAT information regarding the type of account holder for which the order is submitted. To address this OATS–CAT data gap, the Exchange proposes to add paragraph (a)(1)(A)(x) to Rule 4.7, which would require Industry Members to record and report to the Central Repository upon the original receipt or origination of an order “the type of account holder for which the order is submitted.”

ii. OTC Equity Securities

The Participants have identified several data elements related to OTC Equity Securities that FINRA currently receives from ATSs that trade OTC Equity Securities for regulatory oversight purposes, but are not currently included in CAT Data. In particular, the Participants identified three data elements that need to be added to the CAT: (1) Bids and offers for OTC Equity Securities; (2) a flag indicating whether a quote in OTC Equity Securities is solicited or unsolicited; and (3) unpriced bids and offers in OTC Equity Securities. The Participants believe that such data will continue to be important for regulators to oversee the OTC Equity Securities market when using the CAT. Moreover, the Participants do not believe that the proposed requirement would burden ATSs because they currently report this information to FINRA and thus the reporting requirement would merely shift from FINRA to the CAT. Accordingly, as discussed below, the Exchange proposes to amend its Compliance Rule to include these data elements.

A. Bids and Offers for OTC Equity Securities

In performing its current regulatory oversight, FINRA receives a data feed of the best bids and offers in OTC Equity Securities from ATSs that trade OTC Equity Securities. These best bid and offer data feeds for OTC Equity Securities are similar to the best bid and offer SIP Data required to be collected by the Central Repository with regard to NMS Securities.⁸ Accordingly, the Exchange proposes to add paragraph (f)(1) to Rule 4.7 to require the reporting

of the best bid and offer data feeds for OTC Equity Securities to the CAT. Specifically, proposed paragraph (f)(1) of Rule 4.7 would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository “the best bid and best offer for each OTC Equity Security traded on such ATS.”

B. Unsolicited Bid or Offer Flag

FINRA also receives from ATSs that trade OTC Equity Securities an indication whether each bid or offer in OTC Equity Securities on such ATS was solicited or unsolicited. Therefore, the Exchange proposes to add paragraph (f)(2) to Rule 4.7 to require the reporting to the CAT of an indication as to whether a bid or offer was solicited or unsolicited. Specifically, proposed paragraph (f)(2) of Rule 4.7 would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository “an indication of whether each bid and offer for OTC Equity Securities was solicited or unsolicited.”

C. Unpriced Bids and Offers

FINRA receives from ATSs that trade OTC Equity Securities certain unpriced bids and offers for each OTC Equity Security traded on the ATS. Therefore, the Exchange proposes to add paragraph (f)(3) to Rule 4.7, which would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository “the unpriced bids and offers for each OTC Equity Security traded on such ATS.”

iii. Revised Industry Member Reporting Timeline

On February 19, 2020, the Participants filed with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to allow for the implementation of phased reporting to the CAT by Industry Members (“Phased Reporting”).⁹ Specifically, in their exemptive request, the Participants requested that the SEC exempt each Participant from the requirement in Section 6.7(a)(v) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require its Industry Members other than Small Industry Members (“Large Industry Members”) to report to the Central Repository Industry Member Data within two years of the Effective Date

⁹ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Industry Member Reporting Dates (Feb. 19, 2020).

⁸ Section 6.5(a)(ii) of the CAT NMS Plan.

(that is, by November 15, 2018). In addition, the Participants requested that the SEC exempt each Participant from the requirement in Section 6.7(a)(vi) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require its Small Industry Members¹⁰ to report to the Central Repository Industry Member Data within three years of the Effective Date (that is, by November 15, 2019). Correspondingly, the Participants requested that the SEC provide an exemption from the requirement in Section 6.4 of the CAT NMS Plan that “[t]he requirements for Industry Members under this Section 6.4 shall become effective on the second anniversary of the Effective Date in the case of Industry Members other than Small Industry Members, or the third anniversary of the Effective Date in the case of Small Industry Members.” On April 20, 2020, the SEC granted the Participants exemptive relief to implement Phased Reporting, subject to certain timeline changes and conditions.¹¹

As a condition to the exemption, each Participant would implement Phased Reporting through its Compliance Rule by requiring:

(1) Its Large Industry Members and its Small Industry Members that are required to record or report information to OATS pursuant to applicable SRO rules (“Small Industry OATS Reporters”) to commence reporting to the Central Repository Phase 2a Industry Member Data by June 22, 2020, and its Small Industry Non-OATS Reporters to commence reporting to the Central Repository Phase 2a Industry Member Data by December 13, 2021;

(2) its Large Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data by July 20, 2020, and its Small Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data by December 13, 2021;

(3) its Large Industry Members to commence reporting to the Central Repository Phase 2c Industry Member

Data by April 26, 2021, and its Small Industry Members to commence reporting to the Central Repository Phase 2c Industry Member Data by December 13, 2021;

(4) its Large Industry Members and Small Industry Members to commence reporting to the Central Repository Phase 2d Industry Member Data by December 13, 2021; and

(5) its Large Industry Members and Small Industry Members to commence reporting to the Central Repository Phase 2e Industry Member Data by July 11, 2022.

The full scope of CAT Data required under the CAT NMS Plan will be required to be reported when all five phases of the Phased Reporting have been implemented, subject to any applicable exemptive relief or amendments related to the CAT NMS Plan.

As a further condition to the exemption, each Participant proposes to implement the testing timelines described in Section F below through its Compliance Rule by requiring the following:

(1) Industry Member file submission and data integrity testing for Phases 2a and 2b begins in December 2019.

(2) Industry Member testing of the Reporter Portal, including data integrity error correction tools and data submissions, begins in February 2020.

(3) The Industry Member test environment will be open with intra-firm linkage validations to Industry Members for both Phases 2a and 2b in April 2020.

(4) The Industry Member test environment will be open to Industry Members with inter-firm linkage validations for both Phases 2a and 2b in July 2020.

(5) The Industry Member test environment will be open to Industry Members with Phase 2c functionality (full representative order linkages) in January 2021.

(6) The Industry Member test environment will be open to Industry Members with Phase 2d functionality (manual options orders, complex options orders, and options allocations) in June 2021.

(7) Participant exchanges that support options market making quoting will begin accepting Quote Sent Time on quotes from Industry Members no later than April 2020.

(8) The Industry Member test environment (customer and account information) will be open to Industry Members in January 2022.

As a result, the Exchange proposes to amend its Compliance Rule to be consistent with the exemptive relief to

implement Phased Reporting as described below.

A. Phase 2a

In the first phase of Phased Reporting, referred to as Phase 2a, Large Industry Members and Small Industry OATS Reporters would be required to report to the Central Repository “Phase 2a Industry Member Data” by June 22, 2020.¹² To implement the Phased Reporting for Phase 2a, the Exchange proposes to add paragraph (t)(1) of Rule 4.5 (previously paragraph (s)) and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Reporting in Phase 2a

To implement the Phased Reporting with respect to Phase 2a, the Exchange proposes to add a definition of “Phase 2a Industry Member Data” as paragraph (t)(1) of Rule 4.5. Specifically, the Exchange proposes to define the term “Phase 2a Industry Member Data” as “Industry Member Data required to be reported to the Central Repository commencing in Phase 2a.” Phase 2a Industry Member Data would include Industry Member Data solely related to Eligible Securities that are equities. While the following summarizes categories of Industry Member Data required for Phase 2a, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2a.¹³

Phase 2a Industry Member Data would include all events and scenarios covered by OATS. FINRA Rule 7440 describes the OATS requirements for recording information, which includes information related to the receipt or origination of orders, order transmittal, and order modifications, cancellations and executions. Large Industry Members and Small Industry OATS Reporters would be required to submit data to the CAT for these same events and scenarios during Phase 2a. The inclusion of all OATS events and scenarios in the CAT is intended to facilitate the retirement of OATS.

Phase 2a Industry Member Data also would include Reportable Events for:

- Proprietary orders, including market maker orders, for Eligible Securities that are equities;

¹² Small Industry Members that are not required to record and report information to FINRA’s OATS pursuant to applicable SRO rules (“Small Industry Non-OATS Reporters”) would be required to report to the Central Repository “Phase 2a Industry Member Data” by December 13, 2021, which is approximately seventeen months after Large Industry Members and Small Industry OATS Reporters begin reporting.

¹³ The items required to be reported commencing in Phase 2a do not include the items required to be reported in Phase 2c or Phase 2d, as discussed below.

¹⁰ See Section 1.1 of the CAT NMS Plan.

¹¹ See Securities Exchange Act Release No. 88702 (April 20, 2020), 85 FR 23075 (April 24, 2020). As discussed in the SEC’s exemptive order, the Commission granted the Participants conditional exemptive relief from the CAT NMS Plan so that the Compliance Rules may require Phase 2a reporting to commence on June 22, 2020, rather than the April 20, 2020 date set forth in the exemptive request, and Phase 2b reporting to commence on July 20, 2020, rather than the May 18, 2020 date set forth in the exemptive request. As a condition to the exemptive relief, Industry Members who elect to report to the CAT prior to such dates will be permitted to report to the CAT as early as April 20, 2020 for Phase 2a reporting and as early as May 18, 2020 for Phase 2b reporting.

- electronic quotes in listed equity Eligible Securities (*i.e.*, NMS stocks) sent to a national securities exchange or FINRA's Alternative Display Facility ("ADF");

- electronic quotes in unlisted Eligible Securities (*i.e.*, OTC Equity Securities) received by an Industry Member operating an interdealer quotation system ("IDQS"); and
- electronic quotes in unlisted Eligible Securities sent to an IDQS or other quotation system not operated by a Participant or Industry Member.

Phase 2a Industry Member Data would include Firm Designated IDs. During Phase 2a, Industry Members would be required to report Firm Designated IDs to the CAT, as required by paragraphs (a)(1)(A)(i), and (a)(2)(C) of Rule 4.7. Paragraph (a)(1)(A)(i) of Rule 4.7 requires Industry Members to submit the Firm Designated ID for the original receipt or origination of an order. Paragraph (a)(2)(C) of Rule 4.7 requires Industry Members to record and report to the Central Repository, for original receipt and origination of an order, the Firm Designated ID if the order is executed, in whole or in part.

In Phase 2a, Industry Members would be required to report all street side representative orders, including both agency and proprietary orders and mark such orders as representative orders, except in certain limited exceptions as described in the Industry Member Technical Specifications. A representative order is an order originated in a firm owned or controlled account, including principal, agency average price and omnibus accounts, by an Industry Member for the purpose of working one or more customer or client orders.

In Phase 2a, Industry Members would be required to report the link between the street side representative order and the order being represented when: (1) The representative order was originated specifically to represent a single order received either from a customer or another broker-dealer; and (2) there is (a) an existing direct electronic link in the Industry Member's system between the order being represented and the representative order and (b) any resulting executions are immediately and automatically applied to the represented order in the Industry Member's system.

Phase 2a Industry Member Data also would include the manual and Electronic Capture Time for Manual Order Events. Specifically, for each Reportable Event in Rule 4.7, Industry Members would be required to provide a timestamp pursuant to Rule 4.10. Rule 4.10(b)(i) states that

Each Industry Member may record and report: Manual Order Events to the Central Repository in increments up to and including one second, provided that each Industry Members shall record and report the time when a Manual Order Event has been captured electronically in an order handling and execution system of such Industry Member ("Electronic Capture Time") in milliseconds.

Accordingly, for Phase 2a, Industry Members would be required to provide both the manual and Electronic Capture Time for Manual Order Events.¹⁴

Industry Members would be required to report special handling instructions for the original receipt or origination of an order during Phase 2a. In addition, during Phase 2a, Industry Members will be required to report, when routing an order, whether the order was routed as an intermarket sweep order ("ISO"). Industry Members would be required to report special handling instructions on routes other than ISOs in Phase 2c, rather than Phase 2a.

In Phase 2a, Industry Members would not be required to report modifications of a previously routed order in certain limited instances. Specifically, if a trader or trading software modifies a previously routed order, the routing firm is not required to report the modification of an order route if the destination to which the order was routed is a CAT Reporter that is required to report the corresponding order activity. If, however, the order was modified by a Customer or other non-CAT Reporter, and subsequently the routing Industry Members sends a modification to the destination to which the order was originally routed, then the routing Industry Member must report the modification of the order route.¹⁵ In addition, in Phase 2a, Industry Members would not be required to report a cancellation of an order received from a Customer after the order has been executed.

(ii) Timing of Phase 2a Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2a for Large Industry Members, the Exchange proposes to delete the November 15,

¹⁴ Industry Members would be required to provide an Electronic Capture Time following the manual capture time only for new orders that are Manual Order Events and, in certain instances, routes that are Manual Order Events. The Electronic Capture Time would not be required for other Manual Order Events.

¹⁵ This approach is comparable to the approach set forth in OATS Compliance FAQ 35.

2018 date and to supplement paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(A) of Rule 4.16, which would state, in relevant part, that "Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: (A) Phase 2a Industry Member Data by June 22, 2020."

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2a for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 4.16 with new paragraphs (c)(2)(A) and (B) of Rule 4.16. Proposed paragraph (c)(2)(A) of Rule 4.16 would state that

Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: (A) Small Industry Members that are required to record or report information to FINRA's Order Audit Trail System pursuant to applicable SRO rules ("Small Industry OATS Reporter") to report to the Central Repository Phase 2a Industry Member Data by June 22, 2020.

Proposed paragraph (c)(2)(B) of Rule 4.16 would state that "Small Industry Members that are not required to record or report information to FINRA's Order Audit Trail System pursuant to applicable SRO rules ("Small Industry Non-OATS Reporter") to report to the Central Repository Phase 2a Industry Member Data by December 13, 2021."

B. Phase 2b

In the second phase of the Phased Reporting, referred to as Phase 2b, Large Industry Members would be required to report to the Central Repository "Phase 2b Industry Member Data" by July 20, 2020. Small Industry Members would be required to report to the Central Repository "Phase 2b Industry Member Data" by December 13, 2021, which is approximately seventeen months after Large Industry Members begin reporting such data to the Central Repository. To implement the Phased Reporting for Phase 2b, the Exchange proposes to add paragraph (t)(2) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2b Reporting

To implement the Phased Reporting with respect to Phase 2b, the Exchange proposes to add a definition of "Phase 2b Industry Member Data" as paragraph (t)(2) to Rule 4.5. Specifically, the Exchange proposes to define the term "Phase 2b Industry Member Data" as

“Industry Member Data required to be reported to the Central Repository commencing in Phase 2b.” Phase 2b Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2b. While the following summarizes the categories of Industry Member Data required for Phase 2b, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2b.

Phase 2b Industry Member Data would include Industry Member Data related to Eligible Securities that are options and related to simple electronic option orders, excluding electronic paired option orders.¹⁶ A simple electronic option order is an order to buy or sell a single option that is not related to or dependent on any other transaction for pricing and timing of execution that is either received or routed electronically by an Industry Member. Electronic receipt of an order is defined as the initial receipt of an order by an Industry Member in electronic form in standard format directly into an order handling or execution system. Electronic routing of an order is the routing of an order via electronic medium in standard format from one Industry Member’s order handling or execution system to an exchange or another Industry Member. An electronic paired option order is an electronic option order that contains both the buy and sell side that is routed to another Industry Member or exchange for crossing and/or price improvement as a single transaction on an exchange. Responses to auctions of simple orders and paired simple orders are also reportable in Phase 2b.

Furthermore, combined orders in options would be treated in Phase 2b in the same way as equity representative orders are treated in Phase 2a. A combined order would mean, as permitted by Exchange rules, a single, simple order in Listed Options created by combining individual, simple orders in Listed Options from a customer with the same exchange origin code before routing to an exchange. During Phase 2b, the single combined order sent to an exchange must be reported and marked as a combined order, but the linkage to the underlying orders is not required to be reported until Phase 2d.

(ii) Timing of Phase 2b Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT

by November 15, 2018. To implement the Phased Reporting for Phase 2b for Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(B) of Rule 4.16, which would state, in relevant part, that “Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (B) Phase 2b Industry Member Data by July 20, 2020.”

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2b for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that “Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Small Industry Members to report to the Central Repository Phase 2b Industry Member Data . . . by December 13, 2021.”

C. Phase 2c

In the third phase of the Phased Reporting, referred to as Phase 2c, Large Industry Members would be required to report to the Central Repository “Phase 2c Industry Member Data” by April 26, 2021. Small Industry Members would be required to report to the Central Repository “Phase 2c Industry Member Data” by December 13, 2021, which is approximately seven months after Large Industry Members begin reporting such data to the Central Repository. To implement the Phased Reporting for Phase 2c, the Exchange proposes to add paragraph (t)(3) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2c Reporting

To implement the Phased Reporting with respect to Phase 2c, the Exchange proposes to add a definition of “Phase 2c Industry Member Data” as paragraph (t)(3) to Rule 4.5. Specifically, the Exchange proposes to define the term “Phase 2c Industry Member Data” as “Industry Member Data required to be reported to the Central Repository commencing in Phase 2c.” Phase 2c Industry Member Data” would be Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data, Phase 2d Industry Member Data or Phase 2e Industry Member Data. Phase 2c

Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2c. While the following summarizes the categories of Industry Member Data required for Phase 2c, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2c.

Phase 2c Industry Member Data would include Industry Member Data that is related to Eligible Securities that are equities and that is related to: (1) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (2) quotes in unlisted Eligible Securities sent to an IDQS operated by a CAT Reporter (reportable by the Industry Member sending the quotes) (except for quotes reportable in Phase 2d, as discussed below); (3) electronic quotes in listed equity Eligible Securities (*i.e.*, NMS stocks) that are not sent to a national securities exchange or FINRA’s Alternative Display Facility; (4) reporting changes to client instructions regarding modifications to algorithms; (5) marking as a representative order any order originated to work a customer order in price guarantee scenarios, such as a guaranteed VWAP; (6) flagging rejected external routes to indicate a route was not accepted by the receiving destination; (7) linkage of duplicate electronic messages related to a Manual Order Event between the electronic event and the original manual route; (8) special handling instructions on order route reports (other than the ISO, which is required to be reported in Phase 2a); (9) quote identifier on trade events; (10) reporting of large trader identifiers¹⁷ (“LTID”) (if applicable) for accounts with Reportable Events that are reportable to CAT as of and including Phase 2c; (11) reporting of date account opened or Account Effective Date¹⁸ (as applicable) for accounts and flag indicating the Firm Designated ID type as account or relationship; (12) order effective time for orders that are

¹⁷ See definition of “Customer Account Information” in Section 1.1 of the CAT NMS Plan. See also Rule 13h-1 under the Exchange Act.

¹⁸ See definition of “Customer Account Information” and “Account Effective Date” in Section 1.1 of the CAT NMS Plan. Note that the Exchange also proposes to amend the dates in the definitions of “Account Effective Date” and “Customer Account Information” to reflect the Phased Reporting. Specifically, the Exchange proposes to amend paragraph (m)(2) of Rule 4.5 to replace the references to November 15, 2018 and 2019 with references to the commencement of Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2)–(5) of Rule 6810 regarding the definition of “Account Effective Date” with similar changes to the dates set forth therein.

¹⁶ The items required to be reported in Phase 2b do not include the items required to be reported in Phase 2d, as discussed below in Section A.4.

received by an Industry Member and do not become effective until a later time; (13) the modification or cancellation of an internal route of an order; and (14) linkages to the customer order(s) being represented for all representative order scenarios, including agency average price trades, net trades, aggregated orders, and disconnected Order Management System (“OMS”)—Execution Management System (“EMS”) scenarios, as required in the Industry Member Technical Specifications.¹⁹

Phase 2c Industry Member Data also includes electronic quotes that are provided by or received in a CAT Reporter’s order/quote handling or execution systems in Eligible Securities that are equities and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: (1) An equity bid or offer is displayed publicly or has been communicated (a) for listed securities to the Alternative Display Facility (ADF) operated by FINRA; or (b) for unlisted equity securities to an “inter-dealer quotation system” as defined in FINRA Rule 6420(c); or (2) an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing; *i.e.*, no further manual or electronic action is required by the responder providing the quote in order to execute or cause a trade to be executed). With respect to OTC Equity Securities, OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter (other than such an IDQS that does not match and execute orders) are reportable by the Industry Member sending them in Phase 2c. Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.*, FIX) that meets this quote definition (*i.e.*, an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing) would be reportable in Phase 2c.

(ii) Timing of Phase 2c Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2c for

Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(C) of Rule 4.16, which would state, in relevant part, that “Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Phase 2c Industry Member Data by April 26, 2021.”

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2c for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that “Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Small Industry Members to report to the Central Repository . . . Phase 2c Industry Member Data . . . by December 13, 2021.”

D. Phase 2d

In the fourth phase of the Phased Reporting, referred to as Phase 2d, Large Industry Members and Small Industry Members would be required to report to the Central Repository “Phase 2d Industry Member Data” by December 13, 2021. To implement the Phased Reporting for Phase 2d, the Exchange proposes to add paragraph (t)(4) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2d Reporting

To implement the Phased Reporting with respect to Phase 2d, the Exchange proposes to add a definition of “Phase 2d Industry Member Data” as paragraph (t)(4) to Rule 6.5. Specifically, the Exchange proposes to define the term “Phase 2d Industry Member Data” as “Industry Member Data required to be reported to the Central Repository commencing in Phase 2d.”²⁰

“Phase 2d Industry Member Data” is Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data, Industry Member Data that is related to

Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2c Industry Member Data, and Industry Member Data other than Phase 2e Industry Member Data. Phase 2d Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2d. While the following summarizes the categories of Industry Member Data required for Phase 2d, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2d.

Phase 2d Industry Member Data includes with respect to the Eligible Securities that are options: (1) Simple manual orders; (2) electronic and manual paired orders; (3) all complex orders with linkages to all CAT-reportable legs; (4) LTIDs (if applicable) for accounts with Reportable Events for Phase 2d; (5) date account opened or Account Effective Date (as applicable) for accounts with an LTID and flag indicating the Firm Designated ID type as account or relationship for such accounts;²¹ (6) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (7) the modification or cancellation of an internal route of an order; and (8) linkage between a combined order and the original customer orders.

Phase 2d Industry Member Data also would include electronic quotes that are provided by or received in a CAT Reporter’s order/quote handling or execution systems in Eligible Securities that are options and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: A listed option bid or offer which is accessible electronically by customers or other market participants and is immediately actionable (*i.e.*, no further action is required by the responder providing the quote in order to execute or cause a trade to be executed). Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.*, FIX)

²¹ As noted above, the Exchange also proposes to amend the dates in the definitions of “Account Effective Date” and “Customer Account Information” to reflect the Phased Reporting. Specifically, the Exchange proposes to amend paragraph (m)(2) of Rule 6.5 to replace the references to November 15, 2018 and 2019 with references to the commencement of Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2)–(5) of Rule 6810 regarding the definition of “Account Effective Date” with similar changes to the dates set forth therein.

¹⁹ In Phase 2c, for any scenarios that involve orders originated in different systems that are not directly linked, such as a customer order originated in an OMS and represented by a principal order originated in an EMS that is not linked to the OMS, marking and linkages must be reported as required in the Industry Member Technical Specifications.

²⁰ The Participants have determined that reporting information regarding the modification or cancellation of a route is necessary to create the full lifecycle of an order. Accordingly, the Participants require the reporting of information related to the modification or cancellation of a route similar to the data required for the routing of an order and modification and cancellation of an order pursuant to Sections 6.3(d)(ii) and (iv) of the CAT NMS Plan.

that meets this definition would be reportable in Phase 2d for options.

Phase 2d Industry Member Data also would include with respect to Eligible Securities that are options or equities (1) receipt time of cancellation and modification instructions through Order Cancel Request and Order Modification Request events; (2) modifications of previously routed orders in certain instances; and (3) OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter that does not match and execute orders. In addition, subject to any exemptive or other relief, Phase 2d Industry Member Data will include verbal or manual quotes on an exchange floor or in the over-the-counter market, where verbal quotes and manual quotes are defined as bids or offers in Eligible Securities provided verbally or that are provided or received other than via a CAT Reporter's order handling and execution system (*e.g.*, quotations provided via email or instant messaging).

(ii) Timing of Phase 2d Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2d for Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(D) of Rule 4.16, which would state, in relevant part, that “[e]ach Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (D) Phase 2d Industry Member Data by December 13, 2021.”

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2d for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that “Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Small Industry Members to report to the Central Repository . . . Phase 2d Industry Member Data by December 13, 2021.”

E. Phase 2e

In the fifth phase of Phased Reporting, referred to as Phase 2e, both Large

Industry Members and Small Industry Members would be required to report to the Central Repository “Phase 2e Industry Member Data” by July 11, 2022. To implement the Phased Reporting for Phase 2e, the Exchange proposes to add paragraph (t)(5) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2e Reporting

To implement the Phased Reporting with respect to Phase 2e, the Exchange proposes to add a definition of “Phase 2e Industry Member Data” as paragraph (t)(5) of Rule 4.16. Specifically, the Exchange proposes to define the term “Phase 2e Industry Member Data” as “Industry Member Data required to be reported to the Central Repository commencing in Phase 2e. The full scope of Industry Member Data required by the CAT NMS Plan will be required to be reported to the CAT when Phase 2e has been implemented, subject to any applicable exemptive relief or amendments to the CAT NMS Plan.” LTIDs and Account Effective Date are both required to be reported in Phases 2c and 2d in certain circumstances, as discussed above. The terms “Customer Account Information” and “Customer Identifying Information” are defined in Rule 4.5 of the Compliance Rule.²² The Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2e.

(ii) Timing of Phase 2e Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2e for Large Industry Members, the Exchange proposes to delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(E) of Rule 4.16, which would state, in relevant part, that “[e]ach Industry Member (other than a Small

²² The term “Customer Account Information” includes account numbers, and the term “Customer Identifying Information” includes, with respect to individuals, dates of birth and SSNs. See Rule 4.5. The Participants have received exemptive relief from the requirements for the Participants to require their members to provide dates of birth, account numbers and social security numbers for individuals to the CAT. See Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020). See also Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Jan. 29, 2020). Given the relief has been granted, Phase 2e Industry Member Data will not include account numbers, dates of birth and SSNs for individuals.

Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (E) Phase 2e Industry Member Data by July 11, 2022.”

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2e for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(D) of Rule 4.16, which would state, in relevant part, that “[e]ach Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (E) Small Industry Members to report to the Central Repository Phase 2e Industry Member Data by July 11, 2022.”

F. Industry Member Testing Requirements

Rule 4.13(a) sets forth various compliance dates for the testing and development for connectivity, acceptance and the submission order data. In light of the intent to shift to Phased Reporting in place of the two specified dates for the commencement of reporting for Large and Small Industry Members, the Exchange correspondingly proposes to replace the Industry Member development testing milestones in Rule 6880(a) with the testing milestones set forth in the exemptive relief. Specifically, the Exchange proposes to replace Rule 6880(a) with the following:

(1) Industry Member file submission and data integrity testing for Phases 2a and 2b shall begin in December 2019.

(2) Industry Member testing of the Reporter Portal, including data integrity error correction tools and data submissions, shall begin in February 2020.

(3) The Industry Member test environment shall open with intra-firm linkage validations to Industry Members for both Phases 2a and 2b in April 2020.

(4) The Industry Member test environment shall open to Industry Members with inter-firm linkage validations for both Phases 2a and 2b in July 2020.

(5) The Industry Member test environment shall open to Industry Members with Phase 2c functionality (full representative order linkages) in January 2021.

(6) The Industry Member test environment shall open to Industry Members with Phase 2d functionality (manual options orders, complex

options orders, and options allocations) in June 2021.

(7) Participant exchanges that support options market making quoting shall begin accepting Quote Sent Time on quotes from Industry Members no later than April 2020.

(8) The Industry Member test environment (customer and account information) will be open to Industry Members in January 2022.

iv. Granularity of Timestamps

On February 3, 2020, the Participants filed with the Commission a request for exemptive relief from the requirement in Section 6.8(b) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require that, to the extent that its Industry Members utilize timestamps in increments finer than nanoseconds in their order handling or execution systems, such Industry Members utilize such finer increment when reporting CAT Data to the Central Repository.²³ On April 8, 2020, the Participants received the exemptive relief.²⁴ As a condition to this exemption, the Participants, through their Compliance Rules, will require Industry Members that capture timestamps in increments more granular than nanoseconds to truncate the timestamps, after the nanosecond level for submission to CAT, not round up or down in such circumstances. The timestamp granularity exemption remains in effect for five years, until April 8, 2025. After five years, the exemption would no longer be in effect unless the period the exemption is in effect is extended by the SEC.

Accordingly, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief. Specifically, the Exchange proposes to amend paragraph (a)(2) of Rule 4.10. Rule 4.10(a)(2) states that

Subject to paragraph (b), to the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, such Industry Member shall record and report Industry Member Data to the Central Repository with time stamps in such finer increment.

The Exchange proposes to amend this provision to read as follows to reflect the exemptive relief:

Subject to paragraph (b), to the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, such Industry Member shall record and report Industry Member Data to the Central Repository with time stamps in such finer increment up to nanoseconds; provided, that Industry Members that capture timestamps in increments more granular than nanoseconds must truncate the timestamps after the nanosecond level for submission to CAT, rather than rounding such timestamps up or down, until April 8, 2025.

v. Introducing Industry Members

On February 3, 2020, the Participants requested that the Commission exempt broker-dealers that do not qualify as Small Industry Members solely because they satisfy Rule 0–10(i)(2) under the Exchange Act and, as a result, are deemed affiliated with an entity that is not a small business or small organization (“Introducing Industry Member”) from the requirements in the CAT NMS Plan applicable to Industry Members other than Small Industry Members (“Large Industry Members”).²⁵ Instead, such Introducing Industry Members would comply with the requirements in the CAT NMS Plan applicable to Small Industry Members. On April 20, 2020, the SEC granted the Participants exemptive relief with regard to Introducing Industry Members.²⁶

As a result, the Exchange proposes to amend its Compliance Rule to adopt a definition of “Introducing Industry Member” and to revise Rule 4.16 to require Introducing Industry Members to comply with the requirements of the CAT NMS Plan applicable to Small Industry Members. Specifically, the Exchange proposes to define “Introducing Industry Member” in proposed paragraph (v) to Rule 4.5, as “a broker-dealer that does not qualify as a Small Industry Member solely because such broker-dealer satisfies Rule 0–10(i)(2) under the Exchange Act in that it introduces transactions on a fully disclosed basis to clearing firms that are not small businesses or small organizations.” The Exchange also proposes to add a new paragraph (3) to Rule 4.16(c) to state that “Introducing

Industry Members must comply with the requirements of the CAT NMS Plan applicable to Small Industry Members.” With these changes, Introducing Industry Members would be required to comply with the requirements in the CAT NMS Plan applicable to Small Industry Members, rather than the requirements in the CAT NMS Plan applicable to Large Industry Members. vi. CCID/PII

On January 29, 2020, the Participants filed with the Commission a request for exemptive relief from certain requirements related to reporting SSNs, dates of birth and account numbers to the CAT.²⁷ The Commission, Participants and others indicated security concerns with maintaining such sensitive Customer information in the CAT. On March 17, 2020, the Participants received the exemptive relief, subject to certain conditions.²⁸ Assuming the Participants comply with the conditions set forth in the PII Exemption Order, Industry Members would not be required to report SSNs, dates of birth and account numbers to the CAT NMS Plan.

As described in the request for exemptive relief, the Participants requested exemptive relief to allow for an alternative approach to generating a CAT Customer ID (“CCID”) without requiring Industry Members to report SSNs to the CAT (the “CCID Alternative”). In lieu of retaining such SSNs in the CAT, the Participants would use the CCID Alternative, a strategy developed by the Chief Information Security Officer for the CAT and the Chief Information Security Officers from each of the Participants, in consultation with security experts from member firms of Securities Industry and Financial Markets Association. The CCID Alternative facilitates the ability of the Plan Processor to generate a CCID without requiring the Plan Processor to receive SSNs or store SSNs within the CAT. Under the CCID Alternative, the

²⁷ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Jan. 29, 2020).

²⁸ See Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020) (Order Granting Conditional Exemptive Relief, Pursuant to Section 36 and Rule 608(e) of the Securities Exchange Act of 1934, from Section 6.4(d)(ii)(C) and Appendix D Sections 4.1.6, 6.2, 8.1.1, 8.2, 9.1, 9.2, 9.4, 10.1, and 10.3 of the National Market System Plan Governing the Consolidated Audit Trail) (“PII Exemption Order”). The PII Exemption Order lists several conditions that must be met by the Exchange. If the Exchange does not satisfy the conditions, the PII Exemption Order would not apply to the Exchange.

²³ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Granularity of Timestamps and Relationship Identifiers (Feb. 3, 2020).

²⁴ See Securities Exchange Act Release No. 88608 (April 8, 2020), 85 FR 20743 (April 14, 2020).

²⁵ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Small Industry Members (Feb. 3, 2020).

²⁶ See Securities Exchange Act Release No. 88703 (April 20, 2020), 85 FR 23115 (April 24, 2020).

Plan Processor would generate a unique CCID using a two-phase transformation process that avoids having SSNs reported to or stored in the CAT. In the first transformation phase, a CAT Reporter would transform the SSN to an interim value (the “transformed value”). This transformed value, and not the SSN, would be submitted to a separate system within the CAT (“CCID Subsystem”). The CCID Subsystem would then perform a second transformation to create the globally unique CCID for each Customer that is unknown to, and not shared with, the original CAT Reporter. The CCID would then be sent to the customer and account information system of the CAT, where it would be linked with the other customer and account information. The CCID may then be used by the Participants’ regulatory staff and the SEC in queries and analysis of CAT Data. To implement the CCID Alternative, the Participants requested exemptive relief from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan to require, through their Compliance Rules, Industry Members to record and report SSNs to the Central Repository for the original receipt of an order. As set forth in one condition of the PII Exemption Order, Industry Members would be required to transform an SSN to an interim value, and report the transformed value to the CAT.

The Participants also requested exemptive relief to allow for an alternative approach which would exempt the reporting of dates of birth and account numbers²⁹ to the CAT (“Modified PII Approach”), and instead would require Industry Members to report the year of birth and the Firm Designated ID for each trading account associated with the Customers. To implement the Modified PII Approach, the Participants requested exemptive relief from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan to require, through their Compliance Rules, Industry Members to record and report to the Central Repository for the original receipt of an order dates of birth and account numbers for Customers. As conditions to the exemption, Industry Members would be required to report the year of birth of an individual to the Central Repository, and to report the Firm Designated ID to the Central Repository.

To implement the request for exemptive relief and to eliminate the

requirement to report SSNs, date of birth and account numbers to the CAT, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief. Rule 4.7(a)(2)(C) states that

[s]ubject to paragraph (3) below, each Industry Member shall record and report to the Central Repository the following, as applicable (“Received Industry Member Data” and collectively with the information referred to in Rule 6830(a)(1) “Industry Member Data”) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan: . . . (C) for original receipt or origination of an order, the Firm Designated ID for the relevant Customer, and in accordance with Rule 6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

Similarly, Rule 4.8 requires the reporting of Customer Account Information and Customer Identifying Information to the Central Repository. Currently, Rule 4.5(m) defines “Customer Identifying Information” to include, with respect to individuals, “date of birth” and “individual tax payer identification number (“ITIN”)/social security number (“SSN”).” Accordingly, the Exchange proposes to replace “date of birth” in the definition of “Customer Identifying Information” in Rule 4.5(m) (now renumbered Rule 4.5(n)) with “year of birth” and to delete “individual tax payer identification number (“ITIN”)/social security number (“SSN”)” from Rule 6810(m) (now renumbered Rule 6810(n)). In addition, currently, Rule 4.5(l) defines “Customer Account Information” to include account numbers. The Exchange proposes to delete “account number” from the definition of “Customer Account Information” in Rule 4.5(l) (now renumbered Rule 6810(m)).

The Exchange also proposes to add a definition of the term “Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”)” to Rule 4.5. Specifically, the Exchange proposes to add paragraph (pp) to Rule 4.5 to define “Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”)” to mean “the interim value created by an Industry Member based on a Customer ITIN/SSN.”

The Exchange proposes to revise Rule 4.7(a)(2)(C) to include the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”). Specifically, the Exchange proposes to revise Rule 6830(a)(2)(C) to state:

[s]ubject to paragraph (3) below, each Industry Member shall record and report to the Central Repository the following, as applicable (“Received Industry Member Data” and collectively with the information referred to in Rule 6830(a)(1) “Industry Member Data”) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan: . . . (C) for original receipt or origination of an order, the Firm Designated ID for the relevant Customer, Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”), and in accordance with Rule 6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

The Exchange also proposes to include the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) in the Customer information reporting required under Rule 4.8. Specifically, the Exchange proposes to revise Rule 4.8(a) to require each Industry Member to submit to the Central Repository the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”), for each of its Customers with an Active Account prior to such Industry Member’s commencement of reporting to the Central Repository and in accordance with the deadlines set forth in Rule 6880. The Exchange also proposes to revise Rule 4.8(b) to require each Industry Member to submit to the Central Repository any updates, additions or other changes to the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) for each of its Customers with an Active Account on a daily basis. In addition, the Exchange proposes to revise Rule 4.8(c) to require, on a periodic basis as designated by the Plan Processor and approved by the Operating Committee, each Industry Member to submit to the Central Repository a complete set of the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) for each of its Customers with an Active Account. The Exchange also proposes to revise Rule 4.8(d) to require, for each Industry Member for which errors in the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) for each of its Customers with an Active Account submitted to the Central Repository have been identified by the Plan Processor or otherwise, such Industry Member to submit corrected data to the

²⁹ With respect to this aspect of the requested relief, the PII Exemption Order provided relief with regard to the reporting of all account numbers, not just account numbers for individuals as requested by the Participants.

Central Repository by 5:00 p.m. Eastern Time on T+3.

Paragraph (1)(B) of Rule 4.5(m), the definition of “Customer Account Information” states that “in those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution, the Industry Member will” . . . “provide the relationship identifier in lieu of the “account number.” As an account number will no longer be an element in “Customer Account Information,” the relationship identifier used in lieu of the account number will no longer be required as an element of Customer Account Information. Therefore, the Exchange proposes to delete the requirement set forth in Rule 6810(m)(a)(B) regarding relationship identifiers from Rule 4.5(m).

With these changes, Industry Members would not be required to report to the Central Repository dates of birth, SSNs or account numbers pursuant to Rule 4.7(a)(2)(C). However, Industry Members would be required to report the Transformed Value for individual tax payer identification number (“ITIN”)/social security number (“SSN”) and the year of birth to the Central Repository.³⁰

vii. FINRA Facility Data Linkage

On June 5, 2020, the Participants filed with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to allow for an alternative approach to the reporting of clearing numbers and cancelled trade indicators.³¹ The SEC provided this exemptive relief on June 11, 2020.³² FINRA is required to report to the Central Repository data collected by FINRA’s Trade Reporting Facilities, FINRA’s OTC Reporting Facility or FINRA’s Alternative Display Facility (collectively, “FINRA Facility”) pursuant to applicable SRO rules (“FINRA Facility Data”). Included in this FINRA Facility Data is the clearing number of the clearing broker for a reported trade as well as the cancelled trade indicator. Under this alternative approach, the clearing number and the cancelled trade indicator of the FINRA

Facility Data that is reported to the CAT would be linked to the related execution reports reported by Industry Members. To implement this approach in a phased manner, the Participants received exemptive relief from the requirement in Sections 6.4(d)(ii)(A)(2) and (B) of the CAT NMS Plan to require, through their Compliance Rules, that Industry Members record and report to the Central Repository: (1) If the order is executed, in whole or in part, the SRO- Assigned Market Participant Identifier of the clearing broker, if applicable; and (2) if the trade is cancelled, a cancelled trade indicator, subject to certain conditions.

As a condition to this exemption, the Participants would continue to require Industry Members to submit a trade report for a trade, and, if the trade is cancelled, a cancellation, to a FINRA Facility pursuant to applicable SRO rules, and to report the corresponding execution to the Central Repository. In addition, Industry Members would be required to report to the Central Repository the unique trade identifier reported to a FINRA Facility with the corresponding trade report. Furthermore, if an Industry Member does not submit a cancellation to a FINRA Facility, or is unable to provide a link between the execution reported to the Central Repository and the related FINRA Facility trade report, then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator and cancelled trade timestamp if the trade is cancelled. Similarly, if an Industry Member does not submit the clearing number of the clearing broker to a FINRA Facility for a trade, or is unable to provide a link between the execution reported to the Central Repository and the related FINRA Facility trade report, then the Industry Member would be required to record and report to the Central Repository the clearing number as well as contra party information.

As a result, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief to implement this alternative approach. Specifically, the Exchange proposes to require Industry Members to report to the CAT with an execution report the unique trade identifier reported to a FINRA facility with the corresponding trade report. For example, the unique trade identifier for the OTC Reporting Facility and the Alternative Display Facility would be the Compliance ID, for the FINRA/ Nasdaq Trade Reporting Facility, it would be the Branch Sequence Number, and for the FINRA/NYSE Trade Reporting Facility, it would be the FINRA

Compliance Number. This unique trade identifier would be used to link the FINRA Facility Data with the execution report in the CAT. Specifically, the Exchange proposes to add new paragraph (a)(2)(E) to Rule 4.7, which states that:

(E) If an Industry Member is required to submit and submits a trade report for a trade, and, if the trade is cancelled, a cancellation, to one of FINRA’s Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, and the Industry Member is required to report the corresponding execution and/or cancellation to the Central Repository:

(1) The Industry Member is required to report to the Central Repository trade identifier reported by the Industry Member to such FINRA facility for the trade when the Industry Member reports the execution of an order pursuant to Rule 4.7(a)(1)(E) or cancellation of an order pursuant to Rule 4.7(a)(1)(D) beginning June 22, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters, and such trade identifier must be unique beginning October 26, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters.

The Exchange also proposes to relieve Industry Members of the obligation to report to the CAT data related to clearing brokers and trade cancellations pursuant to Rules 4.7(a)(2)(A)(ii) and (B), respectively, as this data will be reported by FINRA to the CAT, except in certain circumstances. Accordingly, the Exchange proposes new paragraphs (a)(2)(E)(ii) and (iii) to Rule 4.7, which would state:

(ii) If the order is executed in whole or in part, and the Industry Member submits the trade report to one of FINRA’s Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, the Industry Member is not required to submit the SRO- Assigned Market Participant Identifier of the clearing broker pursuant to Rule 4.7(a)(2)(A)(ii); provided, however, if the Industry Member does not report the clearing number of the clearing broker to such FINRA facility for a trade, or does not report the unique trade identifier to the Central Repository as required by Rule 4.7(a)(2)(E)(i), then the Industry Member would be required to record and report to the Central Repository the clearing number of the clearing broker as well as information

³⁰ The Exchange anticipates that the Compliance Rule may be further amended when further details regarding the CCID Alternative are finalized.

³¹ See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to FINRA Facility Data Linkage (June 5, 2020).

³² See Securities Exchange Act Release No. 89051 (June 11, 2020) (**Federal Register** publication pending).

about the contra party to the trade beginning April 26, 2021 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters; and

(iii) if the trade is cancelled and the Industry Member submits the cancellation to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, the Industry Member is not required to submit the cancelled trade indicator pursuant to Rule 4.7(a)(2)(B); provided, however, if the Industry Member does not report a cancellation for a canceled trade to such FINRA facility, or does not report the unique trade identifier as required by 4.7(a)(2)(E)(i), then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator as well as a cancelled trade timestamp beginning June 22, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters.

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. Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) 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) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that this proposal is consistent with the Act because it is consistent with certain exemptions from the CAT NMS Plan, because it facilitates the retirement of certain existing regulatory systems, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the

Plan. In approving the Plan, the SEC noted that the Plan "is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act."³³ To the extent that this proposal implements the Plan, including the exemptive relief, and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule changes are consistent with certain exemptions from the CAT NMS Plan, facilitate the retirement of certain existing regulatory systems, and are designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. The Exchange also notes that the amendments to the Compliance Rules will apply equally to all Industry Members that trade NMS Securities and OTC Equity Securities. In addition, all national securities exchanges and FINRA are proposing these amendments to their Compliance Rules. Therefore, this is not a competitive rule filing, and, therefore, it does not impose a 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 foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section

19(b)(3)(A)(iii) of the Act³⁴ and subparagraph (f)(6) of Rule 19b-4 thereunder.³⁵

A proposed rule change filed under Rule 19b-4(f)(6)³⁶ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),³⁷ 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 by June 22, 2020. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it implements exemptive relief from the CAT NMS Plan granted by the Commission and facilitates the start of Industry Member reporting on June 22, 2020. In addition, as noted by the Exchange, the proposed rule change is based on a filing recently approved by the Commission.³⁸ Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative as of June 22, 2020.³⁹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

³⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

³⁵ 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 the 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.

³⁶ 17 CFR 240.19b-4(f)(6).

³⁷ 17 CFR 240.19b-4(f)(6)(iii).

³⁸ See Securities Exchange Act Release No. 89108 (June 19, 2020).

³⁹ 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).

³³ See Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696, 84697 (November 23, 2016).

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeBZX-2020-052 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CboeBZX-2020-052. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeBZX-2020-052 and should be submitted on or before July 20, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁰

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2020-13877 Filed 6-26-20; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION**Sunshine Act Meetings**

TIME AND DATE: 2:00 p.m. on Wednesday, July 1, 2020.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at <https://www.sec.gov>.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topic:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551-5400.

Dated: June 24, 2020.

Vanessa A. Countryman,
Secretary.

[FR Doc. 2020-14017 Filed 6-25-20; 11:15 am]

BILLING CODE 8011-01-P

SUSQUEHANNA RIVER BASIN COMMISSION**Projects Approved for Minor Modifications**

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the minor modifications approved for a previously approved project by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: May 1–31, 2020.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT:

Jason E. Oyler, General Counsel, telephone: (717) 238-0423, ext. 1312; fax: (717) 238-2436; email: joyler@srbc.net. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists previously approved projects, receiving approval of minor modifications, described below, pursuant to 18 CFR 806.18 or to Commission Resolution Nos. 2013-11 and 2015-06 for the time period specified above:

Minor Modifications Issued Under 18 CFR 806.18

1. Pennsylvania General Energy Company, L.L.C., Docket No. 20200312, Plunketts Creek township, Lycoming County, Pa.; approval to change intake design from a submerged intake to an intake within a buried concrete vault; Approval Date: May 6, 2020.

2. Dillsburg Area Authority, Docket No. 20190904, Carroll Township, York County, Pa.; approval to revise monitoring condition contained within Special Condition 20 allowing for an alternate monitoring location; Approval Date: May 14, 2020.

Authority: Pub. L. 91-575, 84 Stat. 1509 *et seq.*, 18 CFR parts 806, 807, and 808

Dated: June 22, 2020.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2020-13954 Filed 6-26-20; 8:45 am]

BILLING CODE 7040-01-P

SUSQUEHANNA RIVER BASIN COMMISSION**Projects Approved for Consumptive Uses of Water**

AGENCY: Susquehanna River Basin Commission.

⁴⁰ 17 CFR 200.30-3(a)(12).

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: May 1–31, 2020

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT:

Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: joyler@srbc.net.

Regular mail inquiries May be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22 (f)(13) and 18 CFR 806.22 (f) for the time period specified above:

Water Source Approval—Issued Under 18 CFR 806.22(f):

1. Tilden Marcellus, LLC; Pad ID: State 822 Pad; ABR–202005003; Gaines Township, Tioga County, Pa.; Consumptive Use of Up to 4.9900 mgd; Approval Date: May 3, 2020.

2. Tilden Marcellus, LLC; Pad ID: State 815 Pad; ABR–202005004; Elk & Gaines Townships, Tioga County, Pa.; Consumptive Use of Up to 4.9900 mgd; Approval Date: May 3, 2020.

3. Chief Oil & Gas, LLC.; Pad ID: Cahill Realty Business Unit Pad; ABR–202005005; Overton Township, Bradford County, Pa.; Consumptive Use of Up to 2.5000 mgd; Approval Date: May 3, 2020.

4. Repsol Oil & Gas USA, LLC; Pad ID: DCNR (02 006); ABR–20100355.R2; Ward Township, Tioga County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: May 3, 2020.

5. SWN Production Company, LLC.; Pad ID: LU–10 ELLY MAY—PAD; ABR–202005001; Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: May 8, 2020.

6. Chief Oil & Gas, LLC.; Pad ID: Kingsley Drilling Pad #1; ABR–20100336.R2; Monroe Township, Bradford County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: May 8, 2020.

7. SWN Production Company, LLC.; Pad ID: Reeve; ABR–20100403.R2; Herrick Township, Bradford County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: May 8, 2020.

8. EXCO Resources (PA), LLC; Pad ID: Kensinger 3H Drilling Pad #1; ABR–20100205.R2; Penn Township,

Lycoming County, Pa.; Consumptive Use of Up to 8.0000 mgd; Approval Date: May 11, 2020.

9. SWEPI LP; Pad ID: Cascarino 443; ABR–20100222.R2; Shippen Township, Tioga County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: May 11, 2020.

10. Chesapeake Appalachia, L.L.C.; Pad ID: Alton; ABR–20100411.R2; Ulster Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 13, 2020.

11. Repsol Oil & Gas USA, LLC; Pad ID: DCNR 587 (02 014); ABR–20100309.R2; Ward Township, Tioga County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: May 13, 2020.

12. ARD Operating, LLC; Pad ID: Texas Blockhouse F&G B; ABR–20100207.R2; Pine Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: May 13, 2020.

13. ARD Operating, LLC; Pad ID: COP Tr 231 C; ABR–20100304.R2; Boggs & Snowshoe Townships, Centre County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: May 13, 2020.

14. SWEPI LP; Pad ID: Parthemer 284; ABR–20100311.R2; Charleston Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: May 13, 2020.

15. SWEPI LP; Pad ID: Cummings 823; ABR–20100350.R2; Chatham Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: May 13, 2020.

16. SWEPI LP; Pad ID: Waskiewicz 445; ABR–20100330.R2; Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 1.0000 mgd; Approval Date: May 13, 2020.

17. Seneca Resources Company, LLC; Pad ID: CRV Pad C09D; ABR–201504001.R1; Shippen Township, Cameron County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: May 13, 2020.

18. EOG Resources, Inc.; Pad ID: HARKNESS 2H; ABR–20091220.R2; Springfield Township, Bradford County, Pa.; Consumptive Use of Up to 1.9990 mgd; Approval Date: May 17, 2020.

19. Chesapeake Appalachia, L.L.C.; Pad ID: Everbreeze; ABR–20100408.R2; Troy Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 17, 2020.

20. Chesapeake Appalachia, L.L.C.; Pad ID: Henry; ABR–20100421.R2; Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 17, 2020.

21. Chesapeake Appalachia, L.L.C.; Pad ID: Koromlan; ABR–20100423.R2;

Albany Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 17, 2020

22. Repsol Oil & Gas USA, LLC; Pad ID: ZIEGLER (03 001) E; ABR–20100424.R2; Columbia Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: May 17, 2020.

23. SWEPI LP; Pad ID: Halteman 611; ABR–20100406.R2; Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: May 17, 2020.

24. SWEPI LP; Pad ID: Lange 447; ABR–20100428.R2; Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 1.0000 mgd; Approval Date: May 17, 2020.

25. Cabot Oil & Gas Corporation; Pad ID: ChambersO P1; ABR–201504004.R1; Harford Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: May 17, 2020.

26. Chesapeake Appalachia, L.L.C.; Pad ID: Blanche Poulsen; ABR–202005002; Rush Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 18, 2020.

27. Chesapeake Appalachia, L.L.C.; Pad ID: Amburke; ABR–20100438.R2; Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 20, 2020.

28. Chief Oil & Gas, LLC; Pad ID: Oliver Drilling Pad #1; ABR–20100425.R2; Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: May 20, 2020.

29. XTO Energy, Inc.; Pad ID: MARQUARDT UNIT 8517H; ABR–20100417.R2; Penn Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: May 20, 2020.

30. Cabot Oil & Gas Corporation; Pad ID: KelleyP P1; ABR–20100310.R2; Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: May 20, 2020.

31. Cabot Oil & Gas Corporation; Pad ID: BlaisureJo P1; ABR–20100325.R2; Jessup Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.5750 mgd; Approval Date: May 20, 2020.

32. Cabot Oil & Gas Corporation; Pad ID: BlaisureJe P1; ABR–20100431.R2; Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: May 20, 2020.

33. Chesapeake Appalachia, L.L.C.; Pad ID: Angie; ABR–20100441.R2; Auburn Township, Susquehanna

County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 21, 2020.

34. Chesapeake Appalachia, L.L.C.; Pad ID: Holtan; ABR–20100446.R2; Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 21, 2020.

35. Chesapeake Appalachia, L.L.C.; Pad ID: Nickolyn; ABR–20100436.R2; Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 21, 2020.

36. Chesapeake Appalachia, L.L.C.; Pad ID: Way; ABR–20100448.R2; Wyalusing Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 21, 2020.

37. Repsol Oil & Gas USA, LLC; Pad ID: CALABRO T1; ABR–201505006.R1; Orange Town, Schuylers County, NY; Consumptive Use of Up to 0.0800 mgd; Approval Date: May 27, 2020.

38. Repsol Oil & Gas USA, LLC; Pad ID: WEBSTER T1; ABR–201505008.R1; Orange Town, Schuylers County, NY; Consumptive Use of Up to 0.0800 mgd; Approval Date: May 27, 2020.

39. Repsol Oil & Gas USA, LLC; Pad ID: DRUMM G2; ABR–201505009.R1; Bradford Town, Steuben County, NY; Consumptive Use of Up to 0.0800 mgd; Approval Date: May 27, 2020.

40. Chesapeake Appalachia, L.L.C.; Pad ID: Pauliny; ABR–20100508.R2; Terry Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 29, 2020.

41. Chesapeake Appalachia, L.L.C.; Pad ID: Ballibay; ABR–20100409.R2; Herrick Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 29, 2020.

42. XTO Energy, Inc.; Pad ID: PA Tract C; ABR–202005006; Chapman Township, Clinton County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: May 29, 2020.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.*, 18 CFR parts 806, 807, and 808

Dated June 24, 2020.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2020–13953 Filed 6–26–20; 8:45 am]

BILLING CODE 7040–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determination Regarding Waiver of Discriminatory Purchasing Requirements With Respects to Goods and Services Covered by Chapter Thirteen of the USMCA

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

DATES: Applicable as of July 1, 2020.

FOR FURTHER INFORMATION CONTACT: Kate Psillos, International Procurement Negotiator, *Kathryn.W.Psillos@ustr.eop.gov* or 202–395–9581, or J. Daniel Stirk, Senior Associate General Counsel, *John_Stirk@ustr.eop.gov* or 202–395–3150.

SUPPLEMENTARY INFORMATION: On June 12, 2017 (82 FR 23699), the President announced his intention to commence negotiations with Canada and Mexico to modernize the North American Free Trade Agreement (NAFTA). On November 30, 2018, the Governments of the United States, Mexico, and Canada (the Parties) signed the protocol replacing NAFTA with the United States-Mexico-Canada Agreement (USMCA). On December 10, 2019, the Parties signed the protocol of amendment to the USMCA. On January 29, 2020, the President signed into law the United States-Mexico-Canada Agreement Implementation Act (Pub. L. 116–113), through which Congress approved the USMCA. On July 1, 2020, the USMCA will enter in force.

Chapter 13 of the USMCA sets forth certain obligations between the United States and Mexico with respect to government procurement of goods and services, as specified in Annex 13–A of the USMCA. Chapter 13 of the USMCA applies only between Mexico and the United States and does not cover Canada.

Section 1–201 of Executive Order 12260 of December 31, 1980 (46 FR 1653) delegates the functions of the President under Sections 301 and 302 of the Trade Agreements Act of 1979 (Trade Agreements Act) (19 U.S.C. 2511–2512) to the U.S. Trade Representative.

In conformity with Sections 301 and 302 of the Trade Agreements Act and Executive Order 12260, and in order to carry out U.S. obligations under Chapter 13 of the USMCA, the U.S. Trade Representative has determined that:

1. Mexico is a country that has become a party to the USMCA and will provide appropriate reciprocal competitive government procurement opportunities to United States products

and suppliers of such products. In accordance with Section 301(b)(1) of the Trade Agreements Act, Mexico is so designated for purposes of Section 301(a) of the Trade Agreements Act.

2. With respect to eligible products of Mexico (*i.e.*, goods and services covered by the Schedule of the United States in Annex 13–A of the USMCA) and suppliers of such products, the application of any law, regulation, procedure, or practice regarding government procurement that would, if applied to such products and suppliers, result in treatment less favorable than accorded:

a. To United States products and suppliers of such products; or

b. To eligible products of another foreign country or instrumentality which is a party to the Agreement on Government Procurement referred to in section 101(d)(17) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(17)) and suppliers of such products, shall be waived.

With respect to Mexico, this waiver shall be applied by all entities listed in the Schedule of the United States in Annex 13–A of USMCA.

3. The designation in paragraph 1 and the waiver in paragraph 2 are subject to modification or withdrawal by the U.S. Trade Representative.

Daniel Watson,

Acting Assistant U.S. Trade Representative for Western Hemisphere, Office of the United States Trade Representative.

[FR Doc. 2020–13864 Filed 6–26–20; 8:45 am]

BILLING CODE 3290–F00–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2019–0124; Notice 1]

North America Subaru, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: North America Subaru, Inc., (NASI) on behalf of Subaru Corporation and Subaru of America, Inc. (Subaru) has determined that certain model year (MY) 2016–2020 Subaru Impreza motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment*. Subaru filed a noncompliance report dated October 10, 2019. Subaru also

petitioned NHTSA on October 23, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Subaru's petition.

DATES: The closing date for comments on the petition is July 29, 2020.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket number and notice number cited in the title of this notice and may be submitted by any of the following methods:

- **Mail:** Send comments by mail addressed to the 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 comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.
- **Electronically:** Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to https://www.regulations.gov, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at <https://www.regulations.gov> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000, (65 FR 19477-78).

SUPPLEMENTARY INFORMATION:

I. Overview: Subaru has determined that certain MY 2016–2019 Subaru Impreza motor vehicles do not fully comply with S7.4.13.1 of FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment* (49 CFR 571.108). Subaru filed a noncompliance report dated October 10, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Subaru also petitioned NHTSA on October 23, 2019, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt, of Subaru's petition, is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercises of judgment concerning the merits of the petition.

II. Vehicles Involved: Approximately 63,697 MY 2016–2020 Subaru Impreza 4 door and approximately 124,703 Subaru Impreza Stationwagon, totaling 188,400 motor vehicles manufactured between September 23, 2016, and August 7, 2019, are potentially involved.

III. Noncompliance: NASI explains that the noncompliance is that the subject vehicles are equipped with headlamp assemblies that do not meet the requirements of paragraphs S8.1.11 and S10.15.6 of FMVSS No. 108. Specifically, the left front and right front halogen headlamp assemblies, containing the side reflex reflector and low beam reflector, may not fully meet requirements set forth in FMVSS No. 108. When tested, four of four headlamp assemblies (samples LH1, LH2, LH3 and LH4) failed to comply at certain test points.

IV. Rule Requirements: S8.1.11 and S10.15.6 of FMVSS No. 108 include the requirements relevant to this petition.

Each reflex reflector must be designed to conform to the photometry requirements of Table XVI-a, when tested according to the procedure of S14.2.3, for the reflex reflector as specified by FMVSS No. 108. Each replaceable bulb headlamp must be designed to conform to the photometry requirements of Table XVIII for upper beam and Table XIX for lower beam as specified in Table II-d for the specific headlamp unit and aiming method, when tested according to the procedure of S14.2.5 using any replaceable light source designated for use in the system under test.

V. Summary of NASI's Petition:

The following views and arguments presented in this section, V. Summary of NASI's Petition, are the views and arguments provided by Subaru. They have not been evaluated by the Agency and do not reflect the views of the Agency.

NASI described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety. NASI submitted the following views and arguments in support of its petition:

1. NASI submits that the nonconformance relating to side reflex reflector photometry is inconsequential as it relates to motor vehicle safety for the following reasons:

a. Real world testing conducted by Subaru showed that noncompliant and compliant reflex reflectors are equally detectable in real world conditions. An overview of cognitive performance testing of the compliant and noncompliant reflex reflectors is attached to this petition. The test set-up simulated a condition typical of a vehicle approaching an unlit, perpendicular vehicle stalled in the driving lane. This test condition simulates a real world condition where side reflex reflectors would support improved visibility of that vehicle. The test results show that, with respect to light reflectance and their ability to be detected, there is no noticeable difference observable between the fully compliant reflex reflector and the reflex reflector that marginally under-complies at select test points.

b. At a majority of the test points where the tested reflex reflectors were found to have measured intensities below the required minimum values, the measured values were generally only slightly less than the required minimum. For two of the four lamp assemblies tested, there was one point (point HV) where measured values slightly exceeded the 25% threshold cited by NHTSA and others in the past as being the threshold at which the difference between two lamp intensities

of less than 25% cannot be detected reliably by most drivers (see DOT report, *Driver Perception of Just Noticeable Differences of Automotive Signal Lamp Intensities*, DOT HS 808 209, September 1994). The two measured values were below the required minimums by 26.9% (sample LH1) and 27.7% (sample LH4). We note that, on average (for the four samples tested by Calcoast), the HV test point was only 24.8% below the required minimum. We also note, as mentioned above, that the cognitive performance testing conducted by Subaru found there to be no noticeable differences in detectability for the compliant and noncompliant reflex reflectors in question.

c. For a dynamic situation, light reflecting at a particular test point will be observed for only a short period of time. Compared to a light source that is constantly illuminated, the intensity originating from a reflex reflector is more fleeting to an observer. Reflex reflector intensity varies significantly depending on the angle of the driver's eyes to the reflector's central axis. Larger angles mean less light will be seen from the reflex reflector. Smaller angles mean more light will be seen from the reflex reflector. As a result, a nonconformity at a given test point for a reflex reflector will generally have a minimal impact on detectability. Thus, minor nonconformances at any one test point should be inconsequential with respect to safety risk.

d. It has been recognized by NHTSA in the past that it is inherently difficult to manufacture all lamps to comply with all test points and that random failures do occur. FMVSS 108 requires lighting equipment be designed to conform to relevant requirements as opposed to simply comply with relevant requirements. According to NHTSA (see 62 FR 63416), occasional random noncompliances are to be expected in this very complicated design and manufacturing process and it is for this reason that the "designed to comply" provision is contained in the lighting standard. See commentary from the Oct. 12, 2018 (83 FR 51766) NPRM in which NHTSA proposed to amend FMVSS 108 to permit the certification of adaptive driving beam headlighting systems. In that notice, the Agency noted that, historically, there has never been an absolute requirement that every motor vehicle lighting device meets every single photometric test point to comply with FMVSS No. 108.

e. NHTSA has previously granted Subaru and General Motors petitions for inconsequentiality involving side reflex reflectors which were determined to be

nonconforming at select test points by varying degrees. See 56 FR 59971 (November 26, 1991) for Subaru and 57 FR 45867 (October 5, 1992) for General Motors.

f. NASI is not aware of any field or customer complaints related to the performance of the side reflex reflectors contained the subject headlamp assemblies, nor have we been made aware of any accidents or injuries that have occurred relating to the performance of these lamp assemblies.

2. NASI submits that the nonconforming condition relating to low beam photometry is inconsequential as it relates to motor vehicle safety for the following reasons:

a. In compliance testing conducted by CALCOAST-ITL on behalf of NHTSA (see NHTSA Report No. 108-CAN-19-002), two of four headlamps assemblies tested (samples LH1 and LH4) failed to comply with certain low beam photometry requirements in S10.15.6.

i. Sample LH1:

- Headlamp assembly sample LH1 photometry was measured at twenty-four test points. At two of the twenty-four test points, sample LH1 exceeded the maximum allowable luminous intensity values by small amounts (11.4% and 4.7%). At one of the twenty-four test points, sample LH1 was below the minimum acceptable luminous intensity value by 13.0%.

- At 21 of 24 test points, sample LH1 complied with the specified luminous intensity values listed in Table XIX-a (LB2V).

ii. Sample LH4:

- Headlamp assembly sample LH4 photometry was measured at 24 test points. At two of the twenty-four test points, the sample LH4 exceeded the maximum allowable luminous intensity values by small amounts (16.8% and 19.4%). At 22 of 24 test points, sample LH4 complied with the specified luminous intensity values listed in Table XIX-a (LB2V).

iii. For both sample LH1 and LH4, test points at which the max. allowable luminous intensity values were exceeded at test points 1.0 degree and 0.5 degree up from the horizontal, respectively. These test points, which were taken in the range of 1.5 degrees to 9.9 degrees left of center, are in place to ensure that glare is minimized to oncoming drivers. In the UMTRI report entitled "Just Noticeable Differences for Low-Beam Headlamp Intensities" (UMTRI-97-4), testing was conducted to evaluate "just noticeable differences" or JNDs for glare intensities of oncoming low-beam headlamps. Specifically, UMTRI looked at whether the 25% rule established by NHTSA for signal lamps

would be applicable for the range of intensities relevant to low-beam headlamps. Based on the testing conducted by UMTRI using low-beam headlamps, UMTRI concluded that applying the 25% limit for inconsequential noncompliance to a photometric test point that specifies a maximum for glare protection would be appropriate. Given the UMTRI conclusion, we believe that the small exceedances in max intensities for these two test points are inconsequential to safety.

iv. For sample LH1, test point 4.0D 20.0R was the third point which was noncompliant per the measurements taken. This test point measures light intensity down and to the right (4 degrees below the horizontal and 20 degrees to the right of center). The minimum intensity value ensures adequate light down and far right (e.g., sidewalk to the right of the vehicle). Sample LH1's measured light intensity was 13% less than the required value.

Of the four samples tested by Calcoast, only one sample was noncompliant at this test point. This degree of nonconformity was minimal (13% below the required value). When the other three samples were tested, the measured intensities at this test point over-complied by margins of 47.2%, 27.8% and 2.8%.

For sample LH1, a point within the Zone 10U-90U/90L-90R at 10.00U-7.3R exceeded the maximum permissible intensity threshold by 8.7%. The maximum allowable intensity of 125 candelas in this zone was established to reduce the amount of glare to the driver of the car with the subject headlamp in driving conditions involving poor weather (rain, fog, snow, etc.). The consequence of one of four samples having a measurement of 8.7% above the maximum allowable value is inconsequential given the exceedance is far less than the 25% just noticeable difference.

As discussed previously in this petition, it has been recognized by NHTSA in the past that it is inherently difficult to manufacture all lamps to comply with all test points and that random failures do occur. FMVSS 108 requires lighting equipment be designed to conform to relevant requirements as opposed to simply comply with relevant requirements. Occasional random noncompliances are to be expected (see 62 FR 63416). This is why there has never been an absolute requirement that every motor vehicle lighting device meets every single photometric test point to comply with FMVSS 108 (see 83 FR 51766).

Based on the data before us, we believe that the light intensity measured at test point 4.0D 20.0R for one of four samples tested is inconsequential to safety.

3. NASI is not aware of any field or customer complaints related to the low-beam performance of the subject headlamp assemblies, nor have we been made aware of any accidents or injuries that have occurred relating to the performance of these lamp assemblies.

4. For the foregoing reasons, NASI submits that the subject non-compliance does not present an unreasonable risk, is inconsequential as it relates to motor vehicle safety and requests an exemption from the notification and remedy requirements of the Motor Vehicle Safety Act pursuant to 49 U.S.C. 30118(d) and associated regulations at 49 CFR part 556.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that NASI no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Subaru notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,
Director, Office of Vehicle Safety Compliance.

[FR Doc. 2020–13927 Filed 6–26–20; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been

placed on OFAC's list of Specially Designated Nationals and Blocked Persons (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (www.treas.gov/ofac).

Notice of OFAC Actions

On June 24, 2020, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individuals

1. DANAIE KENARSARI, Ali; DOB 19 May 1977; POB Shemiran, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport K41818536 (Iran) expires 10 Jul 2022 (individual) [IRAN] (Linked To: ISLAMIC REPUBLIC OF IRAN SHIPPING LINES).

Identified pursuant to section 1(c) of Executive Order 13599 of February 5, 2012, 77 FR 6659, 3 CFR, 2013 Comp., p. 215 (E.O. 13599), for having acted or purported to act for or on behalf of, directly or indirectly, the ISLAMIC REPUBLIC OF IRAN SHIPPING LINES, a person whose property and interests in property are blocked pursuant to this order.

2. GOHARDEHI, Mohsen; DOB 14 Sep 1985; POB Sary, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport E52807849 (Iran) expires 05 Mar 2025 (individual) [IRAN] (Linked To: ISLAMIC REPUBLIC OF IRAN SHIPPING LINES).

Identified pursuant to section 1(c) of E.O. 13599 for having acted or purported to act for or on behalf of, directly or indirectly, the ISLAMIC REPUBLIC OF IRAN SHIPPING LINES, a person whose property and interests in property are blocked pursuant to this order.

3. RAHNAVAR, Alireza; DOB 21 Mar 1980; POB Shiraz, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male

(individual) [IRAN] (Linked To: NATIONAL IRANIAN TANKER COMPANY).

Identified pursuant to section 1(c) of E.O. 13599 for having acted or purported to act for or on behalf of, directly or indirectly, the NATIONAL IRANIAN TANKER COMPANY, a person whose property and interests in property are blocked pursuant to this order.

4. VAZIRI, Reza; DOB 05 Mar 1967; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport T45534988 (Iran) expires 08 May 2023 (individual) [IRAN] (Linked To: NATIONAL IRANIAN TANKER COMPANY).

Identified pursuant to section 1(c) of E.O. 13599 for having acted or purported to act for or on behalf of, directly or indirectly, the NATIONAL IRANIAN TANKER COMPANY, a person whose property and interests in property are blocked pursuant to this order.

5. YAHYA ZADEH, Hamidreza (a.k.a. YAHYAZADEH, Hamid Reza; a.k.a. YAHYAZADEH, Hamidreza), Bandar Abbas, Iran; DOB 12 Oct 1961; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; National ID No. 4431472851 (Iran) (individual) [IRAN] (Linked To: NATIONAL IRANIAN TANKER COMPANY).

Identified pursuant to section 1(c) of E.O. 13599 for having acted or purported to act for or on behalf of, directly or indirectly, the NATIONAL IRANIAN TANKER COMPANY, a person whose property and interests in property are blocked pursuant to this order.

Dated: June 24, 2020.

Andrea M. Gacki,

*Director, Office of Foreign Assets Control,
U.S. Department of the Treasury.*

[FR Doc. 2020–13906 Filed 6–26–20; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Internal Revenue Service Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before July 29, 2020 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent

within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Copies of the submissions may be obtained from Molly Stasko by emailing PRA@treasury.gov, calling (202) 622-8922, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

1. *Title:* Form 4422—Application For Certificate Discharging Property Subject To Estate Tax Lien and Form 15056—Escrow Agreement.

OMB Control Number: 1545-0328.

Type of Review: Revision of a currently approved collection.

Description: Form 4422 is completed by either an executor, administrator, or other interested party for requesting release of any/all property of an estate from the Estate Tax Lien. Form 15056 is a contractual agreement between three parties (the IRS, Taxpayer and Escrow Agent) to hold funds from property sales subject to the federal estate tax lien. The only information it requires is a quarterly statement reflecting the balance in the escrow account as proof that the funds are being held in accordance with the agreement.

Affected Public: Business or other for-profit organizations, Not for Profit institutions, State and Local governments, and Individuals or Households.

Estimated Number of Respondents: 2,500.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 2,500.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 1,250.

2. *Title:* Requirements for Investments to Qualify under Section 936(d)(4) as Investments in Qualified Caribbean Basin Countries.

OMB Control Number: 1545-1138.

Type of Review: Extension without change of a currently approved collection.

Description: The collection of information is required by the Internal Revenue Service to verify that an investment qualifies under IRC section 936(d)(4). The respondents will be possession corporations, certain financial institutions located in Puerto Rico, and borrowers of funds covered by this regulation.

Form: None.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 50.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 50.

Estimated Time per Response: 30 hours.

Estimated Total Annual Burden Hours: 1,500 hours.

3. *Title:* Tax Information Authorization.

OMB Control Number: 1545-1165.

Type of Review: Extension without change of a currently approved collection.

Description: Form 8821 is used to appoint someone to receive or inspect certain tax information. Data is used identify appointees and to ensure that confidential information is not divulged to unauthorized persons. Form 8821-A is an authorization signed by a taxpayer for the IRS to disclose returns and return information to local law enforcement in the event of a possible identity theft.

Form: Form 8821 and Form 8821-A.

Affected Public: Individuals or Households, Business or other for-profit organizations, not-for-profit institutions.

Estimated Number of Respondents: 673,172.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 706,667.

Estimated Time per Response: 1.05 hours and 9 minutes.

Estimated Total Annual Burden Hours: 706,667 hours.

4. *Title:* Capitalization of Interest.

OMB Control Number: 1545-1265.

Type of Review: Extension without change of a currently approved collection.

Description: Certain foreign students and other nonresident visitors are exempt from FICA tax for services performed as specified in the Immigration and Naturalization Act. Applicants for refund of this FICA tax withheld by their employer must complete Form 8316 to verify that they are entitled to a refund of the FICA, that the employer has not paid back any part of the tax withheld and that the taxpayer has attempted to secure a refund from his/her employer.

Form: Form 8821.

Affected Public: Individuals or Households, and Business or other for-profit organizations.

Estimated Number of Respondents: 500,050.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 500,050.

Estimated Time per Response: 14 minutes, 2 hours.

Estimated Total Annual Burden Hours: 116,767 hours.

5. *Title:* Failure to File Gain Recognition Agreements or Satisfy Other Reporting Obligations.

OMB Control Number: 1545-1487.

Type of Review: Extension without change of a currently approved collection.

Description: Sections 367(e)(1) and 367(e)(2) provide for gain recognition on certain transfers to foreign persons under sections 355 and 332. Section 6038B(a) requires U.S. persons transferring property to foreign persons in exchanges described in sections 332 and 355 to furnish information regarding such transfers.

Form: None.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 414.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 414.

Estimated Time per Response: 3 to 20 hours.

Estimated Total Annual Burden Hours: 2,471 hours.

6. *Title:* Tip Reporting Alternative Commitment (TRAC) Agreement for Use in the Cosmetology and Barber Industry.

OMB Control Number: 1545-1529.

Type of Review: Extension without change of a currently approved collection.

Description: Information is required by the Internal Revenue Service in its compliance efforts to assist employers and their employees in understanding and complying with section 6053(a), which requires employees to report all their tips monthly to their employers.

Form: None.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 4,600.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 4,600.

Estimated Time per Response: 9 hours.

Estimated Total Annual Burden Hours: 43,073 hours.

7. *Title:* Student Loan Interest Statement (Form 1098-E).

OMB Control Number: 1545-1576.

Type of Review: Extension without change of a currently approved collection.

Description: Section 6050S(b)(2) of the Internal Revenue Code requires persons (financial institutions, governmental units, etc.) to report \$600 or more of interest paid on student loans

to the IRS and the students. Form 1098–E is used for this purpose.

Form: None.

Affected Public: Business or other for-profit organizations, not-for-profit institutions and State, Local or Tribal governments.

Estimated Number of Respondents: 22,148,234.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 22,148,234.

Estimated Time per Response: 7 minutes.

Estimated Total Annual Burden Hours: 2,657,789 hours.

8. Title: Revenue Procedure 2004–19—Probable or Prospective Reserves Safe Harbor.

OMB Control Number: 1545–1861.

Type of Review: Extension without change of a currently approved collection.

Description: Revenue Procedure 2004–19 requires a taxpayer to file an election statement with the Service if the taxpayer wants to use the safe harbor to estimate the taxpayers' oil and gas properties' probable or prospective reserves for purposes of computing cost depletion under § 611 of the Internal Revenue Code.

Form: None.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 100.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 50 hours.

9. Title: Information Regarding Request for Refund of Social Security Tax Erroneously Withheld on Wages Received by a Nonresident Alien on an F, J, or M Type Visa.

OMB Control Number: 1545–1862.

Type of Review: Extension without change of a currently approved collection.

Description: Certain foreign students and other nonresident visitors are exempt from FICA tax for services performed as specified in the Immigration and Naturalization Act. Applicants for refund of this FICA tax withheld by their employer must complete Form 8316 to verify that they are entitled to a refund of the FICA, that the employer has not paid back any part of the tax withheld and that the taxpayer has attempted to secure a refund from his/her employer.

Form: None.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 22,500.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 22,500.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 5,625 hours.

10. Title: Election to Treat a Qualified Revocable Trust as Part of an Estate.

OMB Control Number: 1545–1881.

Type of Review: Extension without change of a currently approved collection.

Description: Form 8855 is used to make a section 645 election that allows a qualified revocable trust to be treated and taxed (for income tax purposes) as part of its related estate during the election period.

Form: Form 8855.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 5,000.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 5,000.

Estimated Time per Response: 5 hours 38 minutes.

Estimated Total Annual Burden Hours: 28,200 hours.

11. Title: Intake/Interview & Quality Review Sheets.

OMB Control Number: 1545–1964.

Type of Review: Revision of a currently approved collection.

Description: 13614–C, 13614–C (SP), 13614(AR), 13614(CN–S), 13614(CN–T), 13614(HT), 13614(KR), 13614(PL), 13614(PT), 13614(TL), and, 13614(VN) contain a standardized list of required intake questions to guide volunteers in asking taxpayers basic questions about themselves. The intake sheet is an effective tool ensuring that critical taxpayer information is obtained and applied during the interview process.

Affected Public: Business or other for-profit organizations, not-for-profit organizations, and Federal government.

Estimated Number of Respondents: 3,750,000.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 3,750,000.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 625,136 hours.

12. Title: Form 8453–R—Electronic Filing Declaration for Form 8963.

OMB Control Number: 1545–2253.

Type of Review: Extension without change of a currently approved collection.

Description: The purpose of the form is to authenticate the electronic filing of

Form 8963, Report of Health Insurance Provider Information.

Affected Public: Business or other for-profit organizations, not-for-profit institutions.

Estimated Number of Respondents: 2,550.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 2,550.

Estimated Time per Response: 1 hour 37 minutes.

Estimated Total Annual Burden Hours: 4,131 hours.

13. Title: Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 1545–2256.

Type of Review: Extension without change of a currently approved collection.

Description: This collection of information is necessary to enable the Agency to garner customer and stakeholder feedback in an efficient, timely manner, in accordance with our commitment to improving service delivery. The information collected from our customers and stakeholders will help ensure that users have an effective, efficient, and satisfying experience with the Agency's programs.

Affected Public: Individuals and households, and Business or other for-profit organizations.

Estimated Number of Respondents: 24,636.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 24,636.

Estimated Time per Response: 15 minutes to 1.05 hours.

Estimated Total Annual Burden Hours: 10,000 hours.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: June 24, 2020.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2020–13963 Filed 6–26–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Alcohol and Tobacco Tax and Trade Bureau Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in

accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before July 29, 2020 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Copies of the submissions may be obtained from Molly Stasko by emailing PRA@treasury.gov, calling (202) 622-8922, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

Alcohol and Tobacco Tax and Trade Bureau (TTB)

1. *Title:* Distilled Spirits Plants — Records and Monthly Reports of Processing Operations.

OMB Control Number: 1513-0041.

Type of Review: Extension without change of a currently approved collection.

Description: In general, the Internal Revenue Code of 1986, as amended (IRC), at 26 U.S.C. 5001, imposes a Federal excise tax on distilled spirits produced or imported into the United States, and imposes related recordkeeping and reporting requirements. The IRC at 26 U.S.C. 5207 requires that distilled spirits plant (DSP) proprietors keep records and submit reports regarding their production, storage, denaturation, and processing operations in such form and manner as the Secretary of the Treasury (Secretary) by regulation prescribes. Under that IRC authority, the TTB regulations in 27 CFR part 19 require DSP proprietors to keep records regarding their processing operations, as well as any wholesale liquor dealer or taxpaid storeroom operations they conduct. The part 19 regulations also require DSP proprietors to submit monthly reports of those processing operations (based on the required records) using form TTB F 5110.28. TTB uses the collected information to ensure proper tax collection. TTB also aggregates the collected information to produce generalized distilled spirits statistical reports for release to the public.

Form: TTB F 5110.28, TTB REC 5110/03.

Affected Public: Business or other for-profit; State, local, and tribal governments.

Estimated Number of Respondents: 3,700.

Frequency of Response: Monthly.

Estimated Total Number of Annual Responses: 44,400.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 88,800.

2. *Title:* Usual and Customary Business Records Maintained by Brewers.

OMB Control Number: 1513-0058.

Type of Review: Extension without change of a currently approved collection.

Description: The Internal Revenue Code (IRC) at 26 U.S.C. 5415 requires brewers to keep records in such form and containing such information as the Secretary of the Treasury may by regulation prescribe as necessary to protect the revenue. Under those IRC authorities, the TTB regulations in 27 CFR part 25 require brewers to keep usual and customary business records that allow TTB to verify various brewer activities, including, for example, the quantities of raw materials received at a brewery, the quantity of beer and cereal beverages produced at and removed from a brewery taxpaid or without payment of tax, and the quantity of beer previously removed subject to tax that is returned to the brewery.

Form: TTB REC 5130/1.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 12,000.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 12,000.

Estimated Time per Response: None. (Under the OMB regulations 5 CFR 1320.3(b)(2), regulatory requirements to maintain usual and customary records kept during the normal course of business place no burden on respondents as defined in the Paperwork Reduction Act.).

Estimated Total Annual Burden Hours: None.

3. *Title:* Tobacco Products Importer or Manufacturer—Records of Large Cigar Wholesale Prices.

OMB Control Number: 1513-0071.

Type of Review: Extension without change of a currently approved collection.

Description: In general, the Internal Revenue Code (IRC) at 26 U.S.C. 5701 imposes Federal excise taxes on tobacco products and cigarette papers and tubes, and, as described at 26 U.S.C. 5701(a)(2), the excise tax on large cigars

is based on a percentage of the price at which such cigars are sold by the manufacturer or importer. In addition, the IRC at 26 U.S.C. 5741, requires every manufacturer and importer of tobacco products to keep records in such manner as the Secretary shall by regulation prescribe. Under those IRC authorities, the TTB regulations at 27 CFR 40.187 and 41.181 require that manufacturers and importers of large cigars maintain certain records regarding the price for which those cigars are sold. The required records are necessary to protect the revenue as they allow TTB to verify that the appropriate amount of Federal excise tax is paid on large cigars.

Form: None.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 300.

Frequency of Response: Once.

Estimated Total Number of Annual Responses: 300.

Estimated Time per Response: 2 hours 20 minutes.

Estimated Total Annual Burden Hours: 699 hours.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: June 24, 2020.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2020-13955 Filed 6-26-20; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Fiscal Service Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before July 29, 2020 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/

PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Copies of the submissions may be obtained from Molly Stasko by emailing PRA@treasury.gov, calling (202) 622-8922, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

Bureau of the Fiscal Service (BFS)

1. *Title:* Annual Financial Statements of Surety Companies—Schedule F.
OMB Control Number: 1530-0008.

Type of Review: Extension without change of a currently approved collection.

Description: The Schedule F provides information used to determine the amount of unauthorized reinsurance of Treasury approved Admitted Reinsurers. This computation is necessary to ensure the solvency of companies recognized by the Treasury to write Federal surety bonds, and their ability to carry out contractual requirements.

Form: FS Form 6314.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 337.

Frequency of Response: Annually.
Estimated Total Number of Annual Responses: 337.

Estimated Time per Response: 20 hours 30 minutes.

Estimated Total Annual Burden Hours: 6,909 hours.

2. *Title:* Authorization Agreement for Preauthorized Payment.

OMB Control Number: 1530-0015.

Type of Review: Extension without change of a currently approved collection.

Description: Preauthorized payment is used by remitters (individuals and corporations) to authorize electronic funds transfers from the bank accounts maintained at financial institutions for government agencies to collect monies.

Form: SF Form 5510.

Affected Public: Business or other for-profit; Individuals or Households; Federal Government.

Estimated Number of Respondents: 100,000.

Frequency of Response: On occasion.
Estimated Total Number of Annual Responses: 100,000.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 25,000 hours.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: June 24, 2020.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2020-13956 Filed 6-26-20; 8:45 am]

BILLING CODE 4810-AS-P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Notice to Account Holder for Garnishment of Accounts Containing Federal Benefit Payments

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before July 29, 2020 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Copies of the submissions may be obtained from Spencer W. Clark by emailing PRA@treasury.gov, calling (202) 927-5331, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

Title: Notice to Account Holder for Garnishment of Accounts Containing Federal Benefit Payments.

OMB Control Number: 1505-0230.

Type of Review: Extension without change of currently approved collection.

Description: Certain federal benefits are exempt from garnishment orders. In order to give force and effect to federal anti-garnishment statutes, financial institutions, and child support enforcement agencies must maintain records of actions taken in handling garnishments and provide notices to financial account holders.

Form: None.

Affected Public: Business or other for-profit institutions, State and Local Governments.

Estimated Number of Respondents: 130,250.

Frequency of Response: Once.

Estimated Total Number of Annual Responses: 130,250.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden

Hours: 23,355 hours.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: June 24, 2020.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2020-13959 Filed 6-26-20; 8:45 am]

BILLING CODE 4810-25-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0850]

Agency Information Collection Activity Under OMB Review: Requirements for Recognition as a VA Accredited Organization

AGENCY: Office of General Counsel, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Office of General Counsel (OGC), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Refer to “OMB Control No. 2900-0850.”

FOR FURTHER INFORMATION CONTACT:

Danny S. Green, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 421-1354 or email danny.green2@va.gov. Please refer to “OMB Control No. 2900-0850” in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 38 U.S.C. 5902; 38 CFR 14.628.

Title: Requirements for Recognition as a VA Accredited Organization.

OMB Control Number: 2900–0850.

Type of Review: Extension of a currently approved collection.

Abstract: In order for an organization to provide representation to claimants before VA regarding claims for VA benefits, the organization must be recognized by VA for that purpose. Section 5902(a) of title 38, United States Code, authorizes VA to recognize organizations for the limited purpose of ensuring competent representation of veterans in claims for benefits administered by VA. VA implemented this authority in 38 CFR 14.628. An organization must apply for VA recognition, supplying information as specified in section 14.628 to demonstrate that it satisfies the legal requirements for recognition.

(Organizations may provide services to veterans without VA recognition if the services do not include the preparation, presentation, and prosecution of claims for VA benefits.) The information submitted by the organizations in conjunction with a request for recognition is used by VA in reviewing accreditation applications to determine whether organizations meet the requirements for VA recognition under section 14.628. VA relies on this information to ensure that it is granting recognition only to organizations that can provide long-term, competent representation to VA claimants.

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: Vol. 85, No. 71, Monday, April 13, 2020, pages 20572 and 20573.

Affected Public: Individuals, not-for-profit institutions, and state, local, or tribal governments.

Estimated Annual Burden: 50 hours.

Estimated Average Burden per

Respondent: 5 hours.

Frequency of Response: One time.

Estimated Number of Respondents: 10.

By direction of the Secretary:

Danny S. Green,

VA Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2020–13931 Filed 6–26–20; 8:45 am]

BILLING CODE 8320–01–P

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