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U.S. GOVERNMENT
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FEDERAL REGISTER

Vol. 84 Wednesday,
No. 74 April 17, 2019

Pages 15949–16186

OFFICE OF THE FEDERAL REGISTER

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0899; Product Identifier 2018–NM–099–AD; Amendment 39–19615; AD 2019–07–04]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 757 airplanes. This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the inner skin of the lap splices, at the lower fastener row, is subject to scratch cracks that may interact with widespread fatigue damage (WFD). This AD requires a general visual inspection (GVI) of certain lap splice inspection areas for any repair common to the fuselage skin lap splice dual frequency eddy current (DFEC) inspection areas, repetitive DFEC inspections of certain lap splice inner skins for any crack, and applicable on-condition actions. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 22, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 22, 2019.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; phone: 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0899.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0899; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: David Truong, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5224; fax: 562–627–5210; email: *david.truong@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 757 airplanes. The NPRM published in the **Federal Register** on October 15, 2018 (83 FR 51887). The NPRM was prompted by an evaluation by the DAH indicating that the inner skin of the lap splices, at the lower fastener row, is subject to scratch cracks that may interact with WFD. The NPRM proposed to require a general visual inspection of certain lap splice inspection areas for any repair common to the fuselage skin lap splice inspection areas, repetitive DFEC inspections of a certain lap splice inner skin for any crack, and applicable on-condition actions.

We are issuing this AD to address scratches that can grow into scratch cracks, which could interact with multi-site damage (MSD) fastener hole fatigue cracking. This condition, if not addressed, could result in accelerated crack growth rate, which could result in reduced structural integrity of the airplane.

Comments

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

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that accomplishing Supplemental Type Certificate (STC) ST01518SE does not affect the actions specified in the proposed AD.

We concur with the commenter. We have redesignated paragraph (c) of the proposed AD as paragraph (c)(1) of this AD and added paragraph (c)(2) to this AD to state that installation of STC ST01518SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01518SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

Request for Clarification of the Affected Airplanes

Boeing requested that we clarify the affected airplanes in the NPRM. Boeing pointed out that the SUMMARY of the NPRM currently states ''for certain The Boeing Company Model 757 airplanes,'' and requested that we change the SUMMARY of the NPRM to state ''for all The Boeing Company Model 757 airplanes.''

We acknowledge this typographical error. Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018, specifies ''all The Boeing Company Model 757 airplanes,'' and our intent was to match the service information. We have revised the SUMMARY and paragraph (c)(1) of this AD accordingly.

Request To Revise the Safety Issue

Boeing requested that we clarify the nature of the safety issue. Boeing pointed out that the SUMMARY of the NPRM suggests that the safety issue is limited to WFD. Boeing also mentioned that lap splice WFD for the Model 757 fleet is already addressed by AD 2018–18–07, Amendment 39–19386 (83 FR

45037, September 5, 2018) (''AD 2018–18–07''). Boeing specified that the safety issue that the NPRM is mitigating is the potential for interaction between MSD and scratch cracks on the inner skin of the lap splices. Boeing requested that we revise the ''prompted by'' statement in the SUMMARY of the NPRM to specify ''. . . at the lower fastener row is subject to scratch cracks that may interact with WFD.''

We acknowledge the commenter's concern. As written, the SUMMARY of the NPRM can be misconstrued to specify duplicate actions (lap splice WFD) already addressed by AD 2018–18–07. The intent of this AD action is to address the potential for interaction between MSD and scratch cracks on the inner skin of the lap splices. Therefore, we have revised the SUMMARY and paragraph (e) of this AD accordingly.

Request for Clarification of the GVI Inspection Area

Boeing requested that we clarify the GVI inspection area. Boeing mentioned that the SUMMARY and ''Related Service Information Under 1 CFR part 51'' section of the NPRM each describe a GVI common to the fuselage skin lap splice inspection areas. Boeing pointed out that the wording seems confusing and could be perceived as a circular description (*i.e.* that the inspection area is common to the inspection area). Boeing also pointed out that there is no mention of the commonality of the DFEC inspection areas and the GVI inspection areas.

We agree with the commenter's request for the reasons provided. We have revised the **SUMMARY** and ''Related Service Information Under 1 CFR part 51'' section of this AD accordingly.

Request for Clarification of the Affected Inspection Area

Boeing requested that we clarify the affected inspection area. Boeing mentioned that the **SUMMARY** of the NPRM states ''. . . DFEC inspections of a certain lap splice inner skin. . . .'' Boeing pointed out that this statement suggests that only one skin panel is affected. Boeing requested that we revise the **SUMMARY** of the NPRM to state ''. . . DFEC inspections of certain lap splice inner skins. . . .''

We agree with the commenter's request for the reasons provided. We have revised the **SUMMARY** of this AD accordingly.

Request To Clarify That the Inspections Are Not Limited to Lap Splices at Stringer (S) 14

Boeing requested that we clarify that the inspections are not limited to lap splices at S–14. Boeing mentioned that the ''Related Service Information Under 1 CFR part 51'' section of the NPRM describes the service information as procedures for ''. . . repetitive DFEC inspections of the S–14 lap splice inner skin for any crack . . . .'' Boeing pointed out that the description does not mention any of the other lap splice stringer locations where the inspections are required. Boeing requested that we revise the description to specify ''. . . repetitive DFEC inspections of certain lap splice inner skins for any crack . . . .''

We agree with the commenter's request for the reasons provided. We have revised the ''Related Service Information Under 1 CFR part 51'' section of this AD accordingly.

Request To Revise the Costs of Compliance of the NPRM

Boeing requested that we clarify the Costs of Compliance of the NPRM. Boeing mentioned that the NPRM specified 451 airplanes of U.S. registry. Boing specified that its records show there to be 561 airplanes of U.S. registry that would be affected by the NPRM. Boeing also pointed out that the difference in affected airplanes significantly increases the overall costs to the U.S. registered Model 757 fleet.

We agree that Boeing records account for U.S. registered airplanes that the FAA did not include in the NPRM, and that this number may be a more accurate representation of the U.S. registered airplanes. We did not originally include airplanes in our cost estimate that are in storage or not currently active. We have updated the Costs of Compliance section of this AD to reflect the specific number of U.S. registered airplanes and the revised cost on U.S. operators.

Request To Include Required for Compliance (RC) Language

Boeing requested that we revise paragraph (i) of the proposed AD to include RC language. Boeing mentioned that this change would clarify which actions are mandated.

We agree that clarification is necessary, however, we disagree with the request to include RC language in paragraph (i) of this AD. As noted in Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018, if an RB is mandated by an AD, then all applicable requirements specified in the RB must be done. We did not include RC language because this AD requires accomplishment of all the actions specified in the Accomplishment Instructions of Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018. Therefore, we have not changed this AD in this regard.

Request To Exclude Airplanes With Certain Modifications

FedEx and VT Mobile Aerospace Engineering (MAE) Inc. requested that we revise the NPRM to specify that inspections, methods, and compliance times regarding certain lap splices specified in Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018, be omitted for the FedEx fleet of Model 757–200 airplanes. FedEx mentioned that its fleet has been modified using certain VT MAE Inc. supplemental type certificates (STCs), and is no longer configured as passenger airplanes. FedEx pointed out that its Model 757–200 fleet is identified as Groups 1, 4, and 5 in Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018. VT MAE Inc. pointed out that because of the change in configuration related to the VT MAE Inc. STCs, certain lap splice inspection areas have been removed and those airplanes are unable to fully comply with the inspection procedures specified in Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018. VT MAE Inc. proposed certain exceptions to the service information in the final rule. The proposed exceptions are for the lap splice inspections affected by the change in configuration related to the VT MAE Inc. STCs. FedEx requested that, in lieu of requesting an AMOC after publication, we include the exceptions proposed by VT MAE Inc. in the final rule.

We acknowledge the commenters' remarks, however, we disagree with the request to include exceptions in this final rule that are specific to certain airplanes operated by FedEx. There are many different airplane configurations across multiple operators, and ADs cannot accommodate all possible configurations. However, under the provisions of paragraph (i) of this AD, we will consider requests for approval of an AMOC that addresses the VT MAE Inc. STCs, if appropriate data are submitted to substantiate that the method would provide an acceptable level of safety. We have not changed this AD in this regard.

Conclusion

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

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

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018. This service information describes procedures for a GVI of certain lap splice inspection areas for any repair common to the fuselage skin lap splice DFEC inspection areas, repetitive DFEC inspections of certain lap splice inner skins for any crack, and applicable on-condition actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 561 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
General visual inspection	Up to 6 work-hours × $85 per hour = up to $510.	$0	Up to $510	Up to $286,110.
Repetitive DFEC inspections	Up to 124 work-hours × $85 per hour = up to $10,540 per inspection cycle.	$0	Up to $10,540 per inspection cycle.	Up to $5,912,940 per inspection cycle.

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2019–07 The Boeing Company: Amendment 39–19615; Docket No. FAA–2018–0899; Product Identifier 2018–NM–099–AD.

(a) Effective Date

This AD is effective May 22, 2019.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to all The Boeing Company Model 757–200, –200PF, –200CB, and –300 series airplanes, certificated in any category.

(2) Installation of Supplemental Type Certificate (STC) ST01518SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01518SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the inner skin of the lap splices, at the lower fastener row, is subject to scratch cracks that may interact with widespread fatigue damage (WFD). We are issuing this AD to address scratches that can grow into scratch cracks, which could interact with multi-site damage (MSD) fastener hole fatigue cracking. This condition, if not addressed, could result in accelerated crack growth rate, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018.

Note 1 to paragraph (g) of this AD: Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 757–53A0111, dated May 21, 2018, which is referred to in Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018.

(h) Exceptions to Service Information Specifications

(1) For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018, uses the phrase ''the original issue date of Requirements Bulletin 757–53A0111 RB,'' this AD requires using ''the effective date of this AD.''

(2) Where Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018, specifies contacting Boeing for alternative inspections or repair instructions, this AD requires alternative inspection or repair before further flight using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(3) Inspections performed in accordance with Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018, are not necessary in areas where existing FAA approved repairs cover the affected inspection areas; provided the outermost repair doubler extends a minimum of three rows of fasteners above and below the original group of lap splice fasteners subject to the inspection. Damage tolerance inspections specified for existing repairs must continue. Inspections outside of the repaired boundaries are still required as specified in Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018.

(i) Alternative Methods of Compliance (AMOCs)

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

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

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

(j) Related Information

(1) For more information about this AD, contact David Truong, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5224; fax: 562–627–5210; email: *david.truong@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (k)(3) and (k)(4) of this AD.

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin 757–53A0111 RB, dated May 21, 2018.

(ii) [Reserved]

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

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

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

Issued in Des Moines, Washington, on April 8, 2019.

Michael J. Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–07587 Filed 4–16–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2019–0223; Airspace Docket No. 19–ASO–4]

RIN 2120–AA66

Amendment of Restricted Area R–2101; Anniston Army Depot, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action updates the controlling agency information for restricted area R–2101, Anniston Army Depot, AL. This is an administrative change to reflect the current air traffic control (ATC) facility tasked with controlling agency responsibilities for the restricted area. It does not affect the boundaries, designated altitudes, time of designation, or activities conducted within restricted area R–2101.

DATES: Effective date: 0901 UTC, June 20, 2019.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace Policy Group, Office of Airspace Services, 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 updates the controlling agency for restricted area R–2101 to update the controlling agency for the airspace.

The Rule

This rule amends Title 14 Code of Federal Regulations (14 CFR) part 73 by updating the controlling agency name for restricted area R–2101. R–2101 extends from the surface to 5,000 feet MSL, and is wholly contained within the confines of the airspace delegated to the Birmingham Airport Traffic Control

Tower (ATCT). The controlling agency for R–2101 is changed from ''FAA, Atlanta ARTCC,'' to ''FAA, Birmingham ATCT.'' This action is necessary in order to reflect the current ATC facility tasked with controlling agency responsibilities for the restricted area.

This is an administrative change that does not affect the overall R–2101 restricted area boundaries, designated altitudes, time of designation, or activities conducted within the restricted areas; therefore, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action of updating the controlling agency information for R–2101, Anniston Army Depot, AL, qualifies for categorical exclusion under the National Environmental Policy Act, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5.d, ''Modification of the technical description of special use airspace (SUA) that does not alter the dimensions, altitudes, or times of designation of the airspace (such as changes in designation of the controlling or using agency, or correction of typographical errors).'' This airspace action is an administrative change to the description of restricted area R–2101; Anniston Army Depot, AL, to update the controlling agency name. It does not alter the restricted area dimensions, designated altitudes, time of designation, or use of the airspace. Therefore, this airspace action is not expected to result in any significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, this action has been reviewed for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis, and it is determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 73

Airspace, Prohibited areas, Restricted areas.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73, as follows:

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 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.

§ 73.21 Alabama [Amended]

■ 2. § 73.21 is amended as follows:

R–2101 Anniston Army Depot, AL [Amended]

By removing the current controlling agency and adding the following in its place: Controlling agency. FAA, Birmingham ATCT.

Issued in Washington, DC, on April 8, 2019.

Rodger A. Dean Jr.,

Manager, Airspace Policy Group.

[FR Doc. 2019–07596 Filed 4–16–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9847]

RIN 1545–BO71

Qualified Business Income Deduction; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations; correction.

SUMMARY: This document contains corrections to final regulations (TD 9847) that were published in the **Federal Register** on Friday, February 8, 2019. The final regulations are concerning the deduction for qualified business income under section 199A of the Internal Revenue Code.

DATES: This correction is effective on April 17, 2019 and is applicable on or after February 8, 2019.

FOR FURTHER INFORMATION CONTACT: Vishal R. Amin or Sonia K. Kothari at (202) 317–6850 or Robert D. Alinsky, Margaret Burow, or Wendy L. Kribell at (202) 317–5279.

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9847) that are the subject of this correction are issued under sections 199A and 643 of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 9847) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the final regulations (TD 9847), that are the subject of FR Doc. 2019–01025, which published on February 8, 2019 (84 FR 2952), are corrected as follows:

1. On page 2954, second column, in the preamble, under the paragraph heading ''2. Relevant Passthrough Entity'', the thirteenth line, the language ''trust funds as described in § 1.6032–T'' is corrected to read ''trust funds as described in § 1.6032–1T''.

2. On page 2955, second column, in the preamble, under the paragraph heading ''b. Rental Real Estate Activities as a Trade or Business'', the fifth line from the bottom of the first full paragraph, the language ''respect to any real estate rental of which'' is corrected to read ''respect to any rental real estate of which''.

3. On page 2955, third column, in the preamble, the seventh line from the bottom of the first full paragraph, the language, ''07, 2019–9 IRB,'' is corrected to read ''07, 2019–9 IRB 740,''.

4. On page 2957, second column, in the preamble, the fourth line from the bottom of the last partial paragraph under the paragraph headings ''*C. Other Comments*'', the language ''section 199A and 1.199A–1 through'' is corrected to read ''section 199A and §§ 1.199A–1 through''.

5. On page 2963, second column, in the preamble, the twelfth line, under the paragraph heading ''8. Interaction of Sections 857(l) and 199A, the language ''section 199A'' is corrected to read ''section 199A)''.

6. On page 2963, third column, in the preamble, the fifth sentence of the second full paragraph, under the paragraph heading ''8, the language ''A rental real estate enterprise that meets the safe harbor described in Notice

2017–07, released concurrently with these final regulations, may also treated as trades or businesses for purposes of section 199A.'' is corrected to read ''A rental real estate enterprise that meets the safe harbor described in Notice 2019–07, released concurrently with these final regulations, may be also be treated as a trade or business for purposes of section 199A.''.

7. On page 2968, second column, in the preamble, under section ''*C. Aggregation by RPEs*'', the eleventh line from the bottom of the paragraph, the language ''4(c)(1).'' is corrected to read ''4.''.

8. On page 2969, third column, in the preamble, the eighth line from the bottom of the paragraph, the language ''look to the definitions provided for in'' is corrected to read ''look to the definitions provided in''.

9. On page 2969, third column, in the preamble, the fifteenth line, the language ''engineering architecture, accounting,'' is corrected to read ''engineering, architecture, accounting,''.

10. On page 2970, first column, in the preamble, the second line from the bottom of the last partial paragraph, the language ''of the listed fields in section 199(d)(2)'' is corrected to read ''of the listed fields in section 199A(d)(2)''.

11. On page 2976, third column, in the preamble, the second line under the paragraph heading ''*C. Services or Property Provided to an SSTB,* the language ''special rules for service or property'' is corrected to read ''special rules for services or property''.

12. On page 2979, second column, in the preamble, the second line under the paragraph heading ''3. ESBTs'', the language ''proposed regulation's position on'' is corrected to read ''proposed regulation's position on an''.

13. On page 2988, first column, in the preamble, before the caption ''Drafting Information'' is amended by adding section III. to read as follows:

III. Congressional Review Act

The Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget has determined that this is a major rule for purposes of the Congressional Review Act (CRA) (5 U.S.C. 801 et seq.) Under section 801(3) of the CRA, a major rule takes effect 60 days after the rule is published in the **Federal Register**. Notwithstanding this requirement, section 808(2) of the CRA allows agencies to dispense with the requirements of 801 when the agency for good cause finds that such procedure would be impracticable, unnecessary, or contrary to the public interest and that rule shall take effect at such time as the agency promulgating the rule determines.

Pursuant to section 808(2) of the CRA, the Treasury Department and the IRS find, for good cause, that a 60-day delay in the effective date is unnecessary and contrary to the public interest. Section 199A was enacted on December 22, 2017, and applies to taxable years beginning after December 31, 2017, and before January 1, 2026. This means that the statute is currently effective and that taxpayers may claim the deduction when filing their U.S. federal income tax returns for taxable years ending in calendar year 2018. The Treasury Department and the IRS have determined that the rules in this Treasury decision are generally applicable to taxable years ending after February 8, 2019, the date this Treasury decision was published in the **Federal Register**. Sections 1.199A–1(f), 1.199A–2(d), 1.199A–3(d), 1.199A–4(e), 1.199A–5(e), 1.199A–6(e), and 1.643(f)–1(b) are applicable for taxable years ending after August 16, 2018, the date that the proposed regulations were published in the **Federal Register**. However, taxpayers may rely on the rules set forth in §§ 1.199A–1 through 1.199A–6, in their entirety, or on the proposed regulations under §§ 1.199A–1 through 1.199A–6 issued on August 16, 2018, in their entirety, for taxable years ending in calendar year 2018. These final regulations provide crucial guidance for taxpayers on how to apply the rules of section 199A, correctly calculate their deduction under section 199A, and to accurately file their U.S. federal income tax returns.

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2019–07651 Filed 4–16–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9847]

RIN 1545–BO71

Qualified Business Income Deduction; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations (TD 9847) that were published in the **Federal Register** on Friday, February 8, 2019. The final regulations are concerning the deduction for qualified business income under section 199A of the Internal Revenue Code.

DATES: This correction is effective on April 17, 2019 and is applicable on or after February 8, 2019.

FOR FURTHER INFORMATION CONTACT: Vishal R. Amin or Sonia K. Kothari at (202) 317–6850 or Robert D. Alinsky, Margaret Burow, or Wendy L. Kribell at (202) 317–5279.

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9847), published on February 8, 2019 (84 FR 2952), that are the subject of this correction are issued under section 199A of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 9847) contain errors that need to be corrected.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.199A–0 is amended by revising the entry for § 1.199A–1(a)(16) and adding an entry for § 1.199A–2(b)(2)(iv) to read as follows:

§ 1.199A–0 Table of contents.

* * * * *

§ 1.199A–1 Operational rules.

(a) * * *

(16) W–2 wages.

* * * * *

§ 1.199A–2 Determination of W–2 Wages and unadjusted basis immediately after acquisition of qualified property.

* * * * *

(b) * * *

(2) * * *

(iv) Methods for calculating W–2 wages.

* * * * *

■ **Par. 3.** Section 1.199A–1 is amended by revising the second sentence of paragraph (b)(10) and the seventh

sentence of paragraph (d)(4)(xi)(B) to read as follows:

§ 1.199A–1 Operational rules.

* * * * *

(b) * * *

(10) * * * Other passthrough entities including common trust funds as described in § 1.6032–1T and religious or apostolic organizations described in section 501(d) are also treated as RPEs if the entity files a Form 1065, *U.S. Return of Partnership Income,* and is owned, directly or indirectly, by at least one individual, estate, or trust. * * *

* * * * *

(d) * * *

(4) * * *

(xi) * * *

(B) * * * Thus, F has overall net QBI of $80,000 when all trades or businesses are taken together ($200,000) plus $150,000 minus $120,000 minus the carryover loss of ($150,000). * * *

* * * * *

■ **Par. 4.** Section 1.199A–2 is amended by revising the fifth sentence of paragraph (b)(2)(iii)(A) to read as follows:

§ 1.199A–2 Determination of W–2 wages and unadjusted basis immediately after acquisition of qualified properly.

* * * * *

(b) * * *

(2) * * *

(iii) * * *

(A) * * * Section 6071(c) provides that Forms W–2 and W–3 must be filed on or before January 31 of the year following the calendar year to which such returns relate (but see the special rule in § 31.6071(a)–1T(a)(3)(i) of this chapter for monthly returns filed under § 31.6011(a)–5(a) of this chapter). * * *

* * * * *

■ **Par. 5.** Section 1.199A–4 is amended by revising the fourth sentence of paragraph (c)(3), the first sentence of paragraph (c)(4)(ii), and the third sentence of paragraph (d)(15)(ii) to read as follows:

§ 1.199A–4 Aggregation.

* * * * *

(c) * * *

(3) * * * However, an RPE may add a newly created or newly acquired (including through non-recognition transfers) trade or business to an existing aggregated trade or business (including the aggregated trade or business of a lower-tier RPE) if the requirements of paragraph (b)(1) of this section are satisfied. * * *

(4) * * *

(ii) * * * If an RPE fails to attach the statement required in paragraph (c)(4)(i) of this section, the Commissioner may disaggregate the RPE's trades or businesses. * * *

(d) * * *

(15) * * *

(ii) * * * If PRS2 does aggregate the two businesses, PRS1 may not aggregate its food service business with PRS2's aggregated trades or businesses. * * *

* * * * *

■ **Par. 6.** Section 1.199A–5 is amended by revising the sixth sentence of paragraph (b)(3)(xiv) and the eighth sentence of paragraph (d)(3)(iii)((B) to read as follows:

§ 1.199A–5 Specified service trades or businesses and the trade or business of performing services as an employee.

* * * * *

(b) * * *

(3) * * *

(xiv) * * * Several of the employees and K have worked in the bicycle business for many years, and have acquired substantial skill and reputation in the field. * * *

* * * * *

(d) * * *

(3) * * *

(iii) * * *

(B) * * * Unless the presumption is rebutted with a showing that, under Federal tax law, regulations, and principles (including common-law employee classification rules), C is not an employee, C's distributive share of Law Firm 2 income (including any guaranteed payments) will not be QBI for purposes of section 199A.* * *

* * * * *

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2019–07652 Filed 4–16–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the Secretary of the Treasury

31 CFR Parts 27 and 50

Inflation Adjustment of Civil Monetary Penalties

AGENCY: Departmental Offices, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury (''Department'' or ''Treasury'') publishes this final rule to adjust its civil monetary penalties (''CMPs'') for inflation as mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (collectively referred to herein as ''the Act''). This rule adjusts CMPs within the jurisdiction of two components of the Department to the maximum amount required by the Act.

DATES: The final rule is effective April 17, 2019.

FOR FURTHER INFORMATION CONTACT: For information regarding the Terrorism Risk Insurance Program's CMPs, contact Richard Ifft, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, Room 1410 MT, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220, at (202) 622–2922 (not a toll-free number), or Lindsey Baldwin, Senior Policy Analyst, Federal Insurance Office, at (202) 622–3220 (not a toll free number). Persons who have difficulty hearing or speaking may access these numbers via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

For information regarding the Treasury-wide CMP, contact Richard Dodson, Senior Counsel, General Law, Ethics, and Regulation, 202–622–9949.

SUPPLEMENTARY INFORMATION:

I. Background

In order to improve the effectiveness of CMPs and to maintain their deterrent effect, the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note (''the Inflation Adjustment Act''), as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114–74) (''the 2015 Act''), requires Federal agencies to adjust each CMP provided by law within the jurisdiction of the agency. The 2015 Act requires agencies to adjust the level of CMPs with an initial ''catch-up'' adjustment through an interim final rulemaking and to make subsequent annual adjustments for inflation, without needing to provide notice and the opportunity for public comment required by 5 U.S.C. 553. The Department's initial catch-up adjustment interim final rules were published on December 7, 2016 (Departmental Offices) (81 FR 88600), and for 31 CFR part 27, on February 11, 2019 (84 FR 3105). The Department's 2018 annual adjustment was published on March 19, 2018 (83 FR 11876). The 2015 Act provides that any increase in a CMP shall apply to CMPs that are assessed after the date the increase takes effect, regardless of whether the

underlying violation predated such increase.[1]

II. Method of Calculation

The method of calculating CMP adjustments applied in this final rule is required by the 2015 Act. Under the 2015 Act and the Office of Management and Budget guidance required by the 2015 Act, annual inflation adjustments subsequent to the initial catch-up adjustment are to be based on the percent change between the Consumer Price Index for all Urban Consumers (''CPI–U'') for the October preceding the date of the adjustment and the prior year's October CPI–U. As set forth in Office of Management and Budget Memorandum M–19–04 of December 14, 2018, the adjustment multiplier for 2019 is 1.02522. In order to complete the 2019 annual adjustment, each current CMP is multiplied by the 2019 adjustment multiplier. Under the 2015 Act, any increase in CMP must be rounded to the nearest multiple of $1.

Procedural Matters

1. Administrative Procedure Act

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Section 701(b)) requires agencies, beginning in 2017, to make annual adjustments for inflation to CMPs, without needing to provide notice and the opportunity for public comment and a delayed effective date required by 5 U.S.C. 553. Additionally, the methodology used, effective 2017, for adjusting CMPs for inflation is provided by statute, with no discretion provided to agencies regarding the substance of the adjustments for inflation to CMPs. The Department is charged only with performing ministerial computations to determine the dollar amount of adjustments for inflation to CMPs. Accordingly, prior public notice, an opportunity for public comment, and a delayed effective date are not required for this rule.

2. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

3. Executive Order 12866

This rule is not a significant regulatory action as defined in section 3.f of Executive Order 12866.

4. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this rule because there are no new or revised recordkeeping or reporting requirements.

List of Subjects

31 CFR Part 27

Administrative practice and procedure, Penalties.

31 CFR Part 50

Insurance, Terrorism.

Authority and Issuance

For the reasons set forth in the preamble, parts 27 and 50 of title 31 of the Code of Federal Regulations are amended as follows:

PART 27—CIVIL PENALTY ASSESSMENT FOR MISUSE OF DEPARTMENT OF THE TREASURY NAMES, SYMBOLS, ETC.

■ 1. The authority citation for part 27 continues to read as follows:

Authority: 31 U.S.C. 321, 333.

■ 2. Amend § 27.3 by revising paragraph (c) to read as follows:

§ 27.3 Assessment of civil penalties.

* * * * *

(c) *Civil penalty.* An assessing official may impose a civil penalty on any person who violates the provisions of paragraph (a) of this section. The amount of a civil monetary penalty shall not exceed $7,975 for each and every use of any material in violation of paragraph (a), except that such penalty shall not exceed $39,873 for each and every use if such use is in a broadcast or telecast.

* * * * *

PART 50—TERRORISM RISK INSURANCE PROGRAM

■ 3. The authority citation for part 50 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 321; Title I, Pub. L. 107–297, 116 Stat. 2322, as amended by Pub. L. 109–144, 119 Stat. 2660, Pub. L. 110–160, 121 Stat. 1839 and Pub. L. 114–1, 129 Stat. 3 (15 U.S.C. 6701 note); Pub. L. 114–74, 129 Stat. 601, Title VII (28 U.S.C. 2461 note).

■ 4. Amend § 50.83 by revising paragraph (a) to read as follows:

§ 50.83 Adjustment of civil monetary penalty amount.

(a) *Inflation adjustment.* Any penalty under the Act and the regulations in this part may not exceed the greater of $1,394,837 and, in the case of any failure to pay, charge, collect or remit amounts in accordance with the Act or the regulations in this part such amount in dispute.

* * * * *

David Dwyer,

Executive Secretary.

[FR Doc. 2019–07664 Filed 4–16–19; 8:45 am]

BILLING CODE 4810–25–P

[1] However, the increased CMPs apply only with respect to underlying violations occurring after the date of enactment of the 2015 Act, *i.e.,* after November 2, 2015.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2019–0205]

RIN 1625–AA08

Special Local Regulation; Lake of the Ozarks, Village of Four Seasons, MO

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for certain waters of the Osage Arm of the Lake of the Ozarks from mile marker (MM) 5 to MM 9 in Village of Four Seasons, MO. This special local regulation is necessary to protect the public, participants, spectators, and the marine environment from potential hazards during the Lake Race 2019. Entry of persons or vessels into this regulated area is prohibited unless authorized by the Captain of the Port Sector Upper Mississippi River or a designated representative.

DATES: This rule is effective from 8 a.m. through 6 p.m. on June 1, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2019–0205 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Christian Barger, Waterways Management Division, Sector Upper Mississippi River, U.S. Coast Guard; telephone 314–269–2560, email *Christian.J.Barger@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Upper Mississippi River

DHS Department of Homeland Security
FR Federal Register
MM Mile marker
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)(3)(B), the Coast Guard finds that good cause exists for not publishing an NPRM with respect to this rule because it is impracticable. This special local regulation must be established by June 1, 2019 and we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule. Additionally, this is an annually recurring event that is well known and publicized in the area. The NPRM process would delay the establishment of the special local regulation until after the scheduled date of the power boat race and compromise public safety.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The COTP has determined that potential hazards associated with the Lake Race 2019 occurring on June 1, 2019 will be a safety concern for persons and vessels within a four mile stretch of the Osage Arm of the Lake of the Ozarks. The purpose of this rule is to ensure safety of the public, participants, spectators, and the marine environment in the regulated area during the Lake Race 2019 event.

IV. Discussion of the Rule

This rule establishes a temporary special local regulation from 8 a.m. through 6 p.m. on June 1, 2019 on all navigable waters of the Osage arm of the Lake of the Ozarks from MM 5 to MM 9 in Village of Four Seasons, MO. The duration of the special local regulation is intended to protect the public from the power boat race during the event. No vessel or person is permitted to enter the regulated area without obtaining permission from the COTP or a designated representative. A designated representative may be a Patrol Commander (PATCOM). The PATCOM may be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The PATCOM may be contacted on Channel 16 VHF–FM (156.8 MHz) by the call sign ''PATCOM''.

All persons and vessels not registered with the sponsor as participants or official patrol vessels are considered spectators. The ''official patrol vessels'' consist of any Coast Guard, state, or local law enforcement and sponsor provided vessels assigned or approved by the COTP or a designated representative to patrol the regulated area.

Spectator vessels desiring to enter, transit through or within, or exit the regulated area may do so only with permission from the COTP or a designated representative, and when permitted, must operate at a minimum safe navigation speed in a manner which will not endanger participants in the regulated area or any other vessels. No spectator vessel shall anchor, block, loiter, or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times, unless cleared for entry by or through an official patrol vessel. Any spectator vessel may anchor outside the regulated area, but may not anchor in, block, or loiter in a navigable channel. Spectator vessels may be moored to a waterfront facility within the regulated area in such a way that they shall not interfere with the progress of the event. Such mooring must be complete at least 30 minutes prior to the establishment of the regulated area and remain moored through the duration of the event.

The COTP or a designated representative may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

The COTP or a designated representative may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property. The COTP or a designated representative will terminate enforcement of the special local regulations at the conclusion of the event.

The COTP or a designated representative will inform the public of the enforcement times and date for this regulated area through Local Notices to Mariners (LNMs) and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day for the special local regulation. This special local regulation covers a four mile stretch of the arm of the Osage Arm of the Lake of the Ozarks for ten hours on one day. Moreover, the Coast Guard will publish details of this event in the LNM so that waterway users may plan accordingly for transits during this restriction, and the rule allows vessels to seek permission from the COTP or a designated representative to enter the regulated area.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard 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 regulated area 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 contact 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

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 and Commandant Instruction M16475.1D, 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 special local regulation lasting ten hours on a four mile stretch of the Osage Arm of the Lake of the Ozarks. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

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

■ 2. Add § 100.T08–0205 to read as follows:

§ 100.T08–0205 Special Local Regulation; Lake of the Ozarks, Village of Four Seasons, MO.

(a) *Location.* The following area is a special local regulation: All navigable waters of the Osage Arm of the Lake of the Ozarks from mile marker (MM) 5 to MM 9 in the Village of Four Seasons, MO.

(b) *Effective period.* This section is effective from 8 a.m. through 6 p.m. on June 1, 2019.

(c) *Regulations.* (1) In accordance with the general regulations in § 100.35, entry into this regulated area is prohibited unless authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or a designated representative. A designated representative may be a Patrol Commander (PATCOM). The PATCOM may be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The PATCOM may be contacted on Channel 16 VHF–FM (156.8 MHz) by the call sign ''PATCOM'' or by calling (314) 269–2332.

(2) All persons and vessels not registered with the sponsor as participants or official patrol vessels are considered spectators. The ''official patrol vessels'' consist of any Coast Guard, state, or local law enforcement and sponsor provided vessels assigned or approved by the COTP or a designated representative to patrol the regulated area.

(3) Spectator vessels desiring to transit the regulated area may do so only with prior approval of the COTP or a designated representative and when so directed by that officer will be operated at a minimum safe navigation speed in a manner which will not endanger participants in the regulated area or any other vessels.

(4) No spectator vessel shall anchor, block, loiter, or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times, unless cleared for entry by or through an official patrol vessel.

(5) Spectator vessels may anchor outside the regulated area, but may not anchor in, block, or loiter in a navigable channel. Spectator vessels may be moored to a waterfront facility within the regulated area in such a way that they shall not interfere with the progress of the event. Such mooring must be complete at least 30 minutes prior to the establishment of the regulated area and remain moored through the duration of the event.

(6) The COTP or a designated representative may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall

come to an immediate stop and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(7) The COTP or a designated representative may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property.

(8) The COTP or a designated representative will terminate enforcement of the special local regulations at the conclusion of the event.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public of the enforcement times and date for this regulated area through Local Notices to Mariners (LNMs), and/or Marine Safety Information Broadcasts (MSIBs) as appropriate.

S.A. Stoermer,

Captain, U.S. Coast Guard, Captain of the Port Sector Upper Mississippi River.

[FR Doc. 2019–07713 Filed 4–16–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0152]

RIN 1625–AA87

Security Zone; Cumberland River, Nashville, TN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone on the Cumberland River at Mile Marker (MM) 190.7 to MM 191.3, from the Woodland Street Bridge to the Korean Veterans Boulevard Bridge, extending 100 feet from the left descending bank, from April 25, 2019 through April 27, 2019. This security zone is needed to protect the participants of the National Football League (NFL) draft, vessels, and waterfront facilities from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature during the NFL Draft in Nashville, TN. Entry into the security zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative.

DATES: This rule is effective from 3 p.m. on April 25, 2019 through 10 p.m. on April 27, 2019. This rule will be enforced from 3 p.m. through 11 p.m. on April 25, 2019, from 2:30 p.m. through 11:59 p.m. on April 26, 2019, and from 9 a.m. through 10 p.m. on April 27, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0152 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 Petty Officer First Class Nicholas Jones, Marine Safety Detachment Nashville U.S. Coast Guard; telephone 615–736–5421, email *Nicholas.J.Jones@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Ohio Valley
DHS Department of Homeland Security
FR Federal Register
MM Mile Marker
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 an NPRM with respect to this rule because it is impracticable. It is impracticable to publish an NPRM because we must establish this security zone by April 25, 2019 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

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 contrary to the public interest because immediate action is necessary to prevent possible loss of life and property.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The COTP has determined that potential security needs associated with the NFL Draft from April 25, 2019 through April 27, 2019, present a safety and security concern. The purpose of this rulemaking is to ensure the safety and security of the NFL Draft participants, vessels, and waterfront facilities within the regulated area before, during, and after the scheduled times.

IV. Discussion of the Rule

This rule establishes a temporary security zone on the Cumberland River from MM 190.7 to MM 191.3, from the Woodland Street Bridge to the Korean Veterans Boulevard Bridge, extending 100 feet from the left descending bank, from April 25, 2019 through April 27, 2019. The duration of the security zone is intended to ensure the safety and security of the participants of the NFL Draft, vessels, and waterfront facilities before, during, and after the scheduled times. Vessels are not permitted to enter or transit this temporary security zone without obtaining permission from the COTP or a designated representative.

Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM radio channel 16 or phone at 1–800–253–7465.

Persons and vessels permitted to enter the security zone must transit at the slowest safe speed and comply with all lawful directions issued by the COTP or a designated representative.

The COTP or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the security zone, as well as any changes in the dates and times of enforcement.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant

regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-day of the regulated area. This rule is limited to less than one mile of the Cumberland River, at a location that is not expected to have heavy vessel traffic at the specified times of enforcement, and which will last for only three days. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 about the regulated area and the rule allows vessels to seek permission to enter the area.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this 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 temporary security 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 contact 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

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 and Commandant Instruction M16475.1D, 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 establishing a temporary security zone on the Cumberland River at MM 190.7 to 191.3, from the Woodland Street Bridge to the Korean Veterans Boulevard Bridge, extending 100′ out from the left descending bank, from April 25, 2019 through April 27, 2019. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0152 to read as follows:

§ 165.T08–0152 Security Zone; Cumberland River, Nashville, TN.

(a) *Location.* The following area is a security zone: All navigable waters of the Cumberland River, Mile Maker (MM) 190.7 to MM 191.3, from the Woodland Street Bridge to the Korean Veterans Boulevard Bridge, extending 100′ out from the left descending bank.

(b) *Effective period.* This section is effective from 3 p.m. on April 25, 2019 through 10 p.m. on April 27, 2019.

(c) *Periods of enforcement.* This section will be enforced from 3 p.m. through 11 p.m. on April 25, 2019, from 2:30 p.m. through 11:59 p.m. on April

26, 2019, and from 9 a.m. through 10 p.m. on April 27, 2019.

(d) *Regulations* (1) In accordance with the general regulations in § 165.23, entry into this security zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative. Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM radio channel 16 or phone at 1–800–253–7465.

(2) Persons and vessels permitted to enter the security zone must transit at the slowest safe speed and comply with all lawful directions issued by the COTP Sector Ohio Valley or a designated representative.

(e) *Informational broadcasts.* The COTP or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the security zone, as well as any changes in the dates and times of enforcement.

Dated: March 27, 2019.

M.B. Zamperini,

Captain, U.S. Coast Guard, Captain of the Port Sector Ohio Valley.

[FR Doc. 2019–07667 Filed 4–16–19; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R03–OAR–2019–0065; FRL–9991–56–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Delegation of Authority of the Federal Plan for Existing Sewage Sludge Incineration Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is providing notice of and is codifying approval of a request submitted by the Pennsylvania Department of Environmental Protection (PADEP) for delegation of authority to implement and enforce the Federal plan for existing affected Sewage Sludge Incineration (SSI) units. The Federal plan establishes emission limits and monitoring, operating, and recordkeeping requirements for SSI units constructed on or before October 14, 2010. A Memorandum of Agreement (MOA) was signed on January 25, 2019 by PADEP Secretary; Patrick McDonnell. This MOA constitutes the mechanism for the transfer of authority from the EPA to the air pollution control agency. The MOA became effective upon signature by Regional Administrator; Cosmo Servidio on March 1, 2019. The MOA delineates policies, responsibilities, and procedures by which the Federal plan will be administered and enforced by the PADEP, as well as the authorities retained by EPA.

DATES: This final rule is effective on May 17, 2019.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2019–0065. All documents in the docket are listed on the *http://www.regulations.gov* website. Some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additionally available information.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Gordon, Office of Permits and State Programs (3AP10), Air Protection Division, U.S. Environmental Protection Agency, Region 3, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2039. Mr. Gordon can also be reached via electronic mail at *gordon.mike@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 129 of the Clean Air Act (the ''CAA'' or ''Act''), titled ''Solid Waste Combustion,'' requires EPA to develop and adopt standards for solid waste incineration units pursuant to sections 111(d) and 129 of the Act. On March 21, 2011, EPA promulgated new source performance standards (NSPS) and emissions guidelines (EG) for SSI units located at wastewater treatment facilities designed to treat domestic sewage sludge. *See* 76 FR 15372. Codified at 40 CFR part 60, subparts LLLL and MMMM, these final rules set limits for nine pollutants under section 129 of the CAA: Cadmium (Cd), carbon monoxide (CO), hydrogen chloride (HCl), lead (Pb), mercury (Hg), nitrogen oxides (NO_X), particulate matter (PM), polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans (PCDDs/PCFDs), and sulfur dioxide (SO_2). The EG apply to existing SSI units, which are those units that commenced construction on or before October 14, 2010. *See* 40 CFR 60.5060.

CAA section 129 also requires each state in which SSI units are operating to submit a plan to implement and enforce the EG with respect to such units. State plan requirements must be ''at least as protective'' as the EG and become Federally enforceable upon approval by EPA. The procedures for adoption and submittal of state plans are codified in 40 CFR part 60, subpart B. The SSI EG include a model rule that states may use to develop their own plans.

On April 29, 2016, EPA finalized a Federal plan that implements the EG in states that do not have an approved state plan. *See* 81 FR 26040. EPA implementation and enforcement of the Federal plan is viewed as an interim measure until states assume their role as the preferred implementers of the EG requirements stipulated in the Federal plan. Accordingly, EPA encourages states to either develop their own plan (the EG model rule or the Federal plan can be used as a template to reduce the effort needed to develop a plan), or to request delegation of the Federal plan, as PADEP has done. State plans and requests for delegations of authority that have been approved by EPA are reflected in the Code of Federal Regulations at 40 CFR part 62, subparts B through DDD.

II. Summary of Action and EPA Analysis

On September 12, 2016, PADEP requested delegation of authority from EPA to implement and enforce the Federal plan for existing SSI units, codified at 40 CFR part 62 subpart LLL. The scope of the request from PADEP included all affected facilities within the Commonwealth of Pennsylvania, except Allegheny County and the City of Philadelphia.

EPA evaluates requests for delegation of the SSI Federal plan pursuant to the provisions of the SSI Federal plan (*See* 40 CFR 62.15865) and the EPA's Delegations Manual. Pursuant to the SSI Federal plan, a state may meet its CAA section 111(d)/129 obligations by submitting an acceptable written request for delegation of the Federal plan that includes the following elements: (1) A demonstration of adequate resources and legal authority to administer and enforce the Federal plan; (2) an inventory of affected SSI units, an inventory of emissions from affected SSI units, and provisions for state progress reports (*See* 40 CFR 60.5015(a)(1), (2) and (7) from the SSI EG); (3) certification that the hearing on the state delegation request, similar to the

hearing for a state plan submittal, was held, a list of witnesses and their organizational affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission; and (4) a commitment to enter into a MOA with the Regional Administrator that sets forth the terms, conditions, and effective date of the delegation and that serves as the mechanism for the transfer of authority. *See* 40 CFR 62.15865 and 81 FR 26060–61. The PADEP delegation request meets requirements (1) through (4).

Pursuant to EPA's Delegations Manual, item 7–139, Implementation and Enforcement of 111(d)(2) and 111(d)(2)/129(b)(3) Federal Plans, a copy of which is included in the supporting documents for this action, the Regional Administrator is authorized to delegate authority to implement and enforce section 111(d)/129 Federal plans to states. Consistent with these authorities, EPA prepared a MOA between EPA and PADEP which defines policies, responsibilities, and procedures pursuant to the SSI Federal plan by which the Federal plan will be administered by the State. Subsequently, on January 25, 2019, Patrick McDonnell, Secretary of the PADEP, signed the MOA, thus agreeing to the terms and conditions of the MOA and accepting responsibility for implementation and enforcement of the policies and procedures of the Federal plan, except for certain authorities (*e.g.,* approval of major alternatives to test methods or monitoring) retained by EPA. The MOA became effective upon signature by Regional Administrator; Cosmo Servidio on March 1, 2019. EPA continues to retain enforcement authority along with the PADEP. The delegation of authority is effective on May 17, 2019.

III. Final Action

In this action, EPA is notifying the public that PADEP is being delegated authority to implement and enforce the Federal plan for SSI units within the Commonwealth of Pennsylvania. The Code of Federal Regulations is being amended at 40 CFR 62.9690 to reflect this delegation.

IV. Good Cause Finding

Section 553(b) of the Administrative Procedure Act (APA) requires publication of notice of proposed rulemaking and specifies what the notice shall include. *See* 5 U.S.C. 553(b). However, the APA provides an exception from this requirement ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' *See* 5 U.S.C. 553(b)(3)(B).

EPA has found good cause for making today's action final without prior proposal and opportunity for comment because this ministerial action merely codifies EPA's delegation of authority to implement and enforce the SSI Federal plan to the PADEP. This action does not alter the universe of sources regulated under the Federal plan, nor does it change the regulatory requirements applicable to those sources. In these circumstances, notice and comment procedures are unnecessary.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator has the authority to delegate the authority to implement a 111(d)/129 Federal plan that complies with the provisions of the CAA and applicable Federal regulations. *See* 42 40 CFR 60.27. In reviewing 111(d)/129 Federal plan delegation requests, EPA's role is to approve state choices, provided that they meet the criteria of the CAA and of EPA's implementing regulations. Accordingly, this action merely codifies in the Code of Federal Regulations EPA's delegation of authority to implement the Federal plan and does not impose additional requirements beyond those imposed by the already-applicable Federal plan. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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); and
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001).

In addition, this rule is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) because application of those requirements would be inconsistent with the CAA. It also 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).

This action delegating the SSI Federal plan to the Commonwealth of Pennsylvania does not apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. As such, it does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Administrative practice and procedure, Intergovernmental relations, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: March 21, 2019.

Cosmo Servidio,

Regional Administrator, Region III.

40 CFR part 62 is amended as follows:

PART 62—[AMENDED]

■ 1. The authority citation for part 62 continues to read as follows:

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

Subpart NN—Pennsylvania

■ 2. Add an undesignated center heading and § 62.9690 to subpart NN to read as follows:

AIR EMISSIONS FROM EXISTING SEWAGE SLUDGE INCINERATORS (SSI)—SECTION 111(d)/129 FEDERAL PLAN DELEGATIONS

§ 62.9690

(a) *Identification of plan—delegation of authority.* On March 1, 2019, the EPA signed a Memorandum of Agreement (MOA) that defines policies, responsibilities, and procedures pursuant to 40 CFR part 62, subpart LLL (the ''Federal plan'') by which the Federal plan will be administered by the Pennsylvania Department of Environmental Protection (PADEP).

(b) *Identification of sources.* The MOA and related Federal plan apply to all affected SSI units for which construction commenced on or before October 14, 2010.

(c) *Effective date of delegation.* The delegation became fully effective on May 17, 2019.

[FR Doc. 2019–06487 Filed 4–16–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 218

[Docket No. 170919913–9271–02]

RIN 0648–BH27

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to U.S. Navy Marine Structure Maintenance and Pile Replacement in Washington

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

ACTION: Final rule.

SUMMARY: NMFS, upon request of the U.S. Navy (Navy), hereby issues regulations to govern the unintentional taking of marine mammals incidental to conducting construction activities related to marine structure maintenance and pile replacement at facilities in Washington, over the course of five years. These regulations, which allow for the issuance of Letters of Authorization (LOA) for the incidental take of marine mammals during the described activities and specified timeframes, prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, as well as requirements pertaining to the monitoring and reporting of such taking.

DATES: Effective from May 17, 2019 through May 17, 2024.

ADDRESSES: A copy of the Navy's application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.fisheries.noaa.gov/action/incidental-take-authorization-us-navy-marine-structure-maintenance-and-pile-replacement-wa.* In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Regulatory Action

These regulations establish a framework under the authority of the MMPA (16 U.S.C. 1361 *et seq.*) to allow for the authorization of take of marine mammals incidental to the Navy's construction activities related to marine structure maintenance and pile replacement at facilities in Washington.

We received an application from the Navy requesting five-year regulations and authorization to take multiple species of marine mammals. Take is expected to occur by Level A and Level B harassment incidental to impact and vibratory pile driving. Please see ''Background'' below for definitions of harassment.

Legal Authority for the Action

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1371(a)(5)(A)) directs the Secretary of Commerce 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 for up to five years if, after notice and public comment, the agency makes certain findings and issues regulations that set forth permissible methods of taking pursuant to that activity and other means of effecting the ''least practicable adverse impact'' on the affected species or stocks and their habitat (see the discussion below in the ''Mitigation'' section), as well as monitoring and reporting requirements. Section 101(a)(5)(A) of the MMPA and the implementing regulations at 50 CFR part 216, subpart I, provide the legal basis for issuing this rule containing five-year regulations, and for any subsequent LOAs. As directed by this legal authority, the regulations contain mitigation, monitoring, and reporting requirements.

Summary of Major Provisions Within the Regulations

Following is a summary of the major provisions of the regulations regarding Navy construction activities. These measures include:

- Required monitoring of the construction areas to detect the presence of marine mammals before beginning construction activities.
- Shutdown of construction activities under certain circumstances to avoid injury of marine mammals.
- Soft start for impact pile driving to allow marine mammals the opportunity to leave the area prior to beginning impact pile driving at full power.

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs 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, regulations are issued, and notice is provided to the public.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

On July 24, 2017, we received an adequate and complete request from the Navy for authorization to take marine mammals incidental to construction activities related to marine structure maintenance and pile replacement at six Naval installations in Washington inland waters. On August 4, 2017 (82 FR 36359), we published a notice of receipt of the Navy's application in the **Federal Register**, requesting comments and information related to the request for thirty days. We received comments from Whale and Dolphin Conservation

(WDC). The comments received from WDC were considered in development of the proposed rule and are available online at: *www.fisheries.noaa.gov/action/incidental-take-authorization-us-navy-marine-structure-maintenance-and-pile-replacement-wa.* We subsequently published a notice of proposed rulemaking in the **Federal Register** on March 5, 2018 (83 FR 9366). Comments received during the public comment period on the proposed regulations are addressed in ''Comments and Responses.''

The Navy plans to conduct construction necessary for maintenance of existing in-water structures at the following facilities: Naval Base Kitsap (NBK) Bangor, NBK Bremerton, NBK Keyport, NBK Manchester, Zelatched Point, and Naval Station Everett (NS Everett). These repairs include use of impact and vibratory pile driving, including installation and removal of steel, concrete, plastic, and timber piles. Hereafter (unless otherwise specified or detailed) we use the term ''pile driving'' to refer to both pile installation and pile removal. The use of both vibratory and impact pile driving is expected to produce underwater sound at levels that have the potential to result in harassment of marine mammals.

The Navy requests authorization to take individuals of 10 species by Level B harassment. Take by Level A harassment is anticipated only for the harbor seal. These regulations are valid for five years (2019–2024).

Description of the Specified Activity

Overview

Maintaining existing wharfs and piers is vital to sustaining the Navy's mission and ensuring readiness. To ensure continuance of necessary missions at the six installations, the Navy must conduct annual maintenance and repair activities at existing marine waterfront structures, including removal and replacement of piles of various types and sizes. The Navy refers to this program as the Marine Structure Maintenance and Pile Replacement (MPR) program. Exact timing and amount of necessary in-water work is unknown, but the Navy estimates replacing up to 822 structurally unsound piles over the 5-year period, including individual actions currently planned and estimates for future marine structure repairs. Construction will include use of impact and vibratory pile driving, including removal and installation of steel, concrete, plastic, and timber piles. Aspects of construction activities other than pile driving are not anticipated to have the potential to result in incidental take of marine mammals because they are either above water or do not produce levels of underwater sound with likely potential to result in take of marine mammals.

The Navy's waterfront inspection program prioritizes deficiencies in marine structures and plans those maintenance and repairs for design and construction. The Navy's planned activities include individual projects (where an existing need has been identified and funds have been requested) and estimates for emergent or emergency repairs. The latter are also referred to as contingency repairs. Estimates of activity levels for contingency repairs are based on Navy surveys of existing structures, which provide assessments of structure condition and estimates of numbers of particular pile types that may require replacement (at an assumed 1:1 ratio) over the 5-year duration of these regulations. Additional allowance is made for the likelihood that future waterfront inspections will reveal unexpected damage, or that damage caused by severe weather events and/or incidents caused by vessels will result in need for additional contingency repairs.

LOAs could be issued for projects conducted at any of the six facilities if they fit within the structure of the programmatic analysis provided herein and are able to meet the requirements described in the regulations. The Navy will meet with NMFS on an annual basis prior to the start of in-water work windows to review upcoming projects, required monitoring plans, and the results of relevant projects conducted in the preceding in-water work window. The intent is to utilize lessons learned to better inform potential effects of future MPR activities and in any follow-up consultations.

Dates and Duration

These regulations are valid for a period of five years (2019–2024). The specified activities may occur at any time during the five-year period of validity of the regulations, subject to existing timing restrictions. These timing restrictions, or in-water work windows, are typically designed to protect fish species listed under the Endangered Species Act (ESA). For NBK Bangor and Zelatched Point (located in Hood Canal), in-water work may occur from July 16 through January 15. At the remaining four facilities (located in Puget Sound), in-water work may occur from July 16 through February 15. Impact or vibratory driving could occur on any work day within in-water work windows during the period of validity of these regulations.

For many projects the design details are not known; thus, it is not possible to state the number of pile driving days that will be required. Days of pile driving at each site were based on the estimated work days using a slow production rate, *i.e.,* one pile removed per day and one pile installed per day for contingency pile driving and an average production rate of six piles per day for fender pile replacement. These conservative rates give the following estimates of total days at each facility over the 5-year duration: NBK Bangor, 119 days; Zelatched Point, 20 days; NBK Bremerton, 168 days; NBK Keyport, 20 days; NBK Manchester, 50 days; and NS Everett, 78 days. These totals include both extraction and installation of piles, and represent a conservative estimate of pile driving days at each facility. In a real construction situation, pile driving production rates would be maximized when possible and actual daily production rates may be higher, resulting in fewer actual pile driving days.

Specified Geographical Region

The six installations are located within the inland waters of Washington State. Two facilities are located within Hood Canal, while the remainder are located within Puget Sound. Please see Figure 1–1 of the Navy's application for a regional map.

NBK Bangor and Zelatched Point are located in the Hood Canal, a long, narrow, fjord-like basin of western Puget Sound. Please see Figures 1–2 and 1–6 of the Navy's application. NBK Bremerton is located on the north side of Sinclair Inlet in southern Puget Sound. Please see Figure 1–3 of the Navy's application. NBK Keyport is located on the eastern shore of the Kitsap Peninsula. Please see Figure 1–4 of the Navy's application. NBK Manchester is located on Orchard Point, approximately 6.4 km due east of Bremerton. Please see Figure 1–5 of the Navy's application. NS Everett is located in Port Gardner Bay in Puget Sound's Whidbey Basin. Please see Figure 1–7 of the Navy's application.

For additional detail regarding the specified geographical region, please see our notice of proposed rulemaking (83 FR 9366; March 5, 2018) and Section 2 of the Navy's application.

Detailed Description of Activities

As described above, the Navy requested incidental take regulations for its MPR program, which includes maintenance and repair activities at marine waterfront structures at six

installations within Washington inland waters. In order to address identified deficiencies in existing marine structures at the six facilities, the Navy plans to replace up to 822 structurally unsound piles over the 5-year period using both impact and vibratory pile driving. Existing marine structures at the six facilities are identified in Table 1–2 of the Navy's application. The MPR program includes pile repair, extraction, and installation, all of which may be accomplished through a variety of methods. However, only pile extraction and installation using vibratory and impact pile drivers is expected to have the potential to result in incidental take of marine mammals. A detailed description of the Navy's planned activities was provided in our notice of proposed rulemaking (83 FR 9366; March 5, 2018) and is not repeated here. No changes have been made to the specified activities described therein.

Steel piles are typically vibratory-driven for their initial embedment depths or to refusal and finished with an impact hammer for proofing or until the pile meets structural requirements, as necessary. Non-steel piles (concrete, timber, or plastic) are typically impact-driven for their entire embedment depth, in part because non-steel piles are often displacement piles (as opposed to pipe piles) and require some impact to allow substrate penetration. Pile installation can typically take a minute or less to 60 minutes depending on pile type, pile size, and conditions (*i.e.,* bedrock, loose soils, etc.) to reach the required tip elevation.

Impact or vibratory pile driving could occur on any day, but would not occur simultaneously. Location-specific pile totals are given in Table 1 and described below. These totals assume a 1:1 replacement ratio; however, the actual number installed may result in a replacement ratio of less than 1:1. Please see Table A–1 of the Navy's application for additional detail regarding expectations for both planned work and possible contingency work.

TABLE 1—PILE TYPES AND MAXIMUM ANTICIPATED NUMBER TO BE REPLACED AT EACH INSTALLATION

Installation	Existing piles to be replaced	Anticipated piles to be installed
NBK Bangor	44 concrete, 75 steel and/or timber	119 steel or concrete.
NBK Bremerton	75 steel and/or timber, 460 timber	100 steel (14-in diameter and sheet piles), 435 concrete.
NBK Keyport	20 steel and/or concrete	20 steel.
NBK Manchester	50 timber and/or plastic	50 concrete, timber, and/or plastic.
Zelatched Point	20 timber	20 steel, concrete, and/or timber.
NS Everett	1 steel, 2 concrete, and 75 timber	1 steel and 77 concrete and/or timber.

Steel piles would be a maximum size of 36-inch (in) diameter except at NBK Bremerton where they would be 14-in diameter. Concrete piles will be a maximum of 24-in diameter and timber/plastic piles will be a maximum of 18-in diameter. For purposes of analysis, it is assumed that any unknown pile type would be steel, since this provides a worst-case scenario in terms of noise levels produced. All concrete, timber, and plastic piles are assumed to be installed entirely by impact pile driver, and all steel piles are assumed to require some use of an impact driver. This is a conservative assumption, as all steel piles would be initially driven with a vibratory driver until they reach a point of refusal (where substrate conditions make use of a vibratory hammer ineffective) or engineering specifications require impact driving to verify load-bearing capacity. Therefore, some steel piles may not in fact require use of the impact driver during installation.

Of 822 piles expected to be installed as replacement piles, 121 have been identified as steel piles. These piles will be installed over the 5-year duration at NBK Bremerton, NBK Keyport, and NS Everett. In addition, another 139 piles that would be installed at NBK Bangor (119) and Zelatched Point (20) have not been identified as to pile type and could be steel, concrete, timber, or plastic. For this analysis, it is assumed all 139 of these would be steel piles. Therefore, 260 piles are assumed to be steel, with 100 of these 14-in and the remainder assumed to be 36-in diameter. A total of 435 replacement piles have been identified as concrete (NBK Bremerton). The remaining 127 replacement piles (NBK Manchester and NS Everett) could ultimately be concrete, timber, or plastic, but are assumed for purposes of analysis to be concrete, which is a more conservative noise scenario.

Comments and Responses

We published a notice of proposed rulemaking in the **Federal Register** on March 5, 2018 (83 FR 9366). During the 30-day comment period, we received letters from the Marine Mammal Commission (Commission) and WDC. The comments and our responses are described below. For full detail of the comments and recommendations, please see the comment letters, which are available online at: *www.fisheries.noaa.gov/action/incidental-take-authorization-us-navy-marine-structure-maintenance-and-pile-replacement-wa*.

Comment: The Commission recommends that NMFS should consult with scientists and acousticians to determine the appropriate accumulation time that action proponents should use to determine the extent of Level A harassment zones based on the associated cumulative sound exposure level (cSEL) thresholds in such situations. The Commission further recommends that NMFS consult with both internal and external scientists and acousticians to determine the appropriate accumulation time that action proponents should use to determine the extent of the Level A harassment zones based on the associated cSEL thresholds for the various types of sound sources, including stationary sound sources, when simple area x density methods are employed.

Response: NMFS appreciates the Commission's interest in these issues, and we agree that these are important issues needing further consideration. Therefore, NMFS will continue to consider and refine our approach to assessing the appropriate calculation of Level A harassment through future actions as more information and experience is available. However, we also note that the Commission itself has a nine-member Committee of Scientific Advisors, including experts on the very topics mentioned, in addition to a professional staff including subject matter experts on marine mammal behavior and acoustics. As such, we would welcome in the future any more substantive recommendations relating to these issues that the Commission wishes to provide.

In addition, as described in NMFS's 2018 *Revision to Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing* (NMFS, 2018), NMFS is committed to re-examining the default 24-hour accumulation period and has convened a working group to investigate alternative means of identifying appropriate accumulation periods.

Comment: The Commission recommends NMFS share its criteria for rounding take estimates with the Commission.

Response: On June 27, 2018, NMFS provided the Commission with its internal guidance on rounding and the consideration of additional factors in take estimation.

Comment: WDC recommends that NMFS and the Navy consult on the status of marine mammal populations on a yearly basis at minimum, and with greater frequency regarding southern resident killer whales (SRKW). In addition, WDC suggests that the Navy must communicate and coordinate with Washington State on the status of localized impacts to SRKW for each project site, during the time of each construction project.

Response: We appreciate WDC's comments and share, generally, their concern regarding the status of the endangered SRKW population. However, as discussed herein and as separately evaluated through NMFS's consultation under section 7 of the ESA, the Navy's construction actions (and NMFS's potential issuance of LOAs for take of marine mammals incidental to those actions) do not present meaningful concern relating to impacts on SRKW. In most locations, SRKW are not expected to be present and, where they could be encountered, the Navy has committed to robust monitoring and mitigation requirements. As such, the requirement to meet annually (as proposed) is sufficient for information exchange regarding ongoing and future actions associated with the Navy's MPR program. With regard to the need to consult with Washington State, it is outside NMFS's jurisdiction to require such consultation of the Navy. The Navy will consult with Washington State in accordance with applicable state law.

Comment: WDC disagrees with statements in our notice of proposed rulemaking regarding the likely presence of SRKW individuals in the vicinity of Navy facilities, and suggests that the estimated taking of SRKW as a result of the specified activities is underestimated. WDC supports this recommendation in part by stating that the occurrence of SRKW in Puget Sound, which is likely determined by the presence and abundance of seasonally-preferred salmon runs, has been highly variable in recent years. WDC recommends reconsideration of the number of SRKW that may be taken by the specified activity.

Response: We first clarify that WDC apparently misunderstands our previous statement relating to expected SRKW occurrence. Rather than stating that SRKW occur ''only rarely and unpredictably'' in the Puget Sound region as a whole, as WDC comments, we noted that SRKW (among other species considered herein) occur only rarely and unpredictably in the vicinity of Navy facilities. Reiterating our discussion in the notice of proposed rulemaking, SRKW have not been reported in Hood Canal (NBK Bangor and Zelatched Point) since 1995. The most recent confirmed sighting of SRKW near NBK Bremerton and Keyport was in Dyes Inlet in 1997. SRKW occur only rarely in far southern Puget Sound, near NBK Manchester. We acknowledged that SRKW are more likely to occur in the vicinity of NS Everett.

Even at these latter two facilities (NBK Manchester and NS Everett), a density-based analysis would lead to an assumption that SRKW takes are unlikely, given the generally small acoustic harassment zones (other than when vibratory driving steel piles) and low number of expected days on which pile driving would occur under the MPR. Further, the robust monitoring requirements that will be required of the Navy—including a commitment to monitor local sightings networks and avoid pile driving when SRKW are known to be in the vicinity of a facility—in conjunction with the Navy's commitment to cease pile driving if SRKW (and cetaceans in general) are detected at any distance strengthen the conclusion that take of SRKW is unlikely. However, in recognition that it is possible that SRKW could briefly enter a harassment zone undetected during vibratory pile driving of steel piles (when harassment zones are largest), we include analysis of a precautionary amount of take (equivalent to two occurrences of J pod or one occurrence of L pod). The best available information supports a conclusion that this amount of take by Level B harassment is sufficient, and WDC provides no specific information to the contrary.

Comment: WDC similarly suggests that the take number provided for transient killer whales is underestimated, citing take estimates produced for previous incidental take authorizations for Navy construction activities in Hood Canal.

Response: As for SRKW, the best available information, including local sightings data—described in our notice of proposed rulemaking—suggest that transient killer whales are unlikely to occur in the vicinity of Navy construction activities. The take estimate considered herein considers available information regarding group size and a reasonable estimate of days on which transient killer whales may be present, given their rarity, small acoustic harassment zones for most pile driving, and few days on which pile driving is expected to occur. The incidental take authorization cited by WDC (83 FR 10689; March 12, 2018) included an extremely precautionary take estimate, as has occurred for other past Navy authorization requests for construction activities specific to the Hood Canal. We note that, although relatively large amounts of take have been authorized for transient killer whales in association with such activities—since 2010, nine IHAs have been issued to the Navy for construction activities at NBK Bangor in Hood Canal—no killer whale observations have ever been reported during construction activities, and no actual takes are believed to have occurred.

Overall, with regard to both SRKW and transient killer whales, we believe that the take estimates analyzed herein reasonably reflect the available information and should be expected to be reasonably reflective of the actual potential for killer whale occurrence in the vicinity of Navy facilities during the specified construction activities. However, these regulations also include an adaptive management component that will allow Navy and NMFS to evaluate on an annual basis whether these assumptions remain accurate.

Comment: With regard to mitigation and monitoring, WDC recommends ensuring that the Navy uses adequate numbers and placement of marine mammal observers to detect killer whales at all project sites, to ensure awareness regarding updated information on killer whale presence, and to utilize citizen sightings networks on a daily basis to monitor for presence and activity of killer whales in the area before construction activities begin. WDC also recommends ensuring that observers have sufficient training to differentiate between resident and transient killer whales.

Response: We agree with WDC regarding these measures, all of which were included in our notice of proposed rulemaking and are carried forward in

these final regulations. However, we do caution that identification of transient versus resident killer whales may be difficult, although observers will be required to have sufficient training and experience to make such determinations, within reason.

Comment: WDC encourages ''extensive use of the proposed hydroacoustic system'' to detect the presence of marine mammals. In addition, WDC states that this unspecified system should be used to measure localized levels of underwater noise at project sites and, in conjunction with a threshold level to be determined, that construction activities not be allowed to proceed if background noise levels are above some predetermined level.

Response: Overall, this proposal is too vague to reasonably be acted upon. It is unclear what ''proposed hydroacoustic system'' WDC is referring to, and significantly greater detail would need to be provided with regard to the technical specifications of such a system as well as with regard to the data to be collected and its monitoring in order to meaningfully evaluate such a proposal. It is also unclear what WDC suggests as an appropriate threshold for background noise. Moreover, even if we assume that a passive acoustic monitoring system exists in conjunction with the capacity to monitor data in real-time, the proposal to not allow construction activities if background noise is above a specified threshold would likely be considered impracticable, as the level of background noise is outside the Navy's control, such a requirement could significantly constrain Navy's ability to conduct necessary construction activities, and the requirement would be of uncertain benefit to affected marine mammals.

Description of Marine Mammals in the Area of the Specified Activity

We have reviewed the Navy's species descriptions—which summarize available information regarding status and trends, distribution and habitat preferences, behavior and life history, and auditory capabilities of the potentially affected species—for accuracy and completeness and refer the reader to Sections 3 and 4 of the Navy's application, instead of reprinting the information here. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SAR; *www.fisheries.noaa.gov/topic/population-assessments#marine-mammals*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*www.fisheries.noaa.gov/find-species*).

Table 2 lists all species with expected potential for occurrence in the specified geographical region where the Navy proposes to conduct the specified activities and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2017). PBR, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population, is considered in concert with known sources of ongoing anthropogenic mortality (as described in NMFS's SARs).

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. All managed stocks in the specified geographical region are assessed in either NMFS's U.S. Alaska SARs or U.S. Pacific SARs. All values presented in Table 2 are the most recent available at the time of writing, including updated information provided in the draft 2018 SARs (available online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports*).

Ten species (with 13 managed stocks) are considered to have the potential to co-occur with Navy activities. There are several species or stocks that occur in Washington inland waters, but which are not expected to occur in the vicinity of the six Naval installations. These species may occur in waters of the Strait of Juan de Fuca or in more northerly waters in the vicinity of the San Juan Islands and areas north to the Canadian border, and include the Pacific white-sided dolphin (*Lagenorhynchus obliquidens*) and the northern resident stock of killer whales. In addition, the sea otter is found in coastal waters, with the northern (or eastern) sea otter (*Enhydra lutris kenyoni*) found in Washington. However, sea otters are managed by the U.S. Fish and Wildlife Service and are not considered further in this document.

Two populations of gray whales are recognized, eastern and western North Pacific (ENP and WNP). As discussed in greater detail in our notice of proposed rulemaking (83 FR 9366; March 5, 2018), there is no indication that WNP whales occur in waters of Hood Canal or southern Puget Sound, and it is extremely unlikely that a gray whale in close proximity to Navy construction activity would be one of the few WNP whales that have been documented in the eastern Pacific. The likelihood that a WNP whale would be present in the vicinity of Navy construction activities is insignificant and discountable, and WNP gray whales are omitted from further analysis.

TABLE 2—MARINE MAMMALS POTENTIALLY PRESENT IN THE VICINITY OF NAVY CONSTRUCTION ACTIVITIES

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Eschrichtiidae:.						
Gray whale	*Eschrichtius robustus*	Eastern North Pacific	-; N	26,960 (0.05; 25,849; 2016)	801	138
Family Balaenopteridae (rorquals):						
Humpback whale	*Megaptera novaeangliae kuzira.*	California/Oregon/Washington (CA/OR/WA).	E/D; Y	2,900 (0.03; 2,784; 2014)	16.7 [7]	≥38.6
Minke whale	*Balaenoptera acutorostrata scammoni.*	CA/OR/WA	-; N	636 (0.72; 369; 2014)	3.5	≥1.3

TABLE 2—MARINE MAMMALS POTENTIALLY PRESENT IN THE VICINITY OF NAVY CONSTRUCTION ACTIVITIES—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae:						
Killer whale	*Orcinus orca* [4]	West Coast Transient [5]	-; N	243 (n/a; 2009)	2.4	0
		Eastern North Pacific Southern Resident.	E/D; Y	77 (n/a; 2017)	0.13	0
Family Phocoenidae (porpoises):						
Harbor porpoise	*Phocoena phocoena vomerina.*	Washington Inland Waters	-; N	11,233 (0.37; 8,308; 2015)	66	≥7.2
Dall's porpoise	*Phocoenoides dalli dalli*	CA/OR/WA	-; N	25,750 (0.45; 17,954; 2014)	172	0.3
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions):						
California sea lion	*Zalophus californianus*	United States	-; N	257,606 (n/a; 233,515; 2014)	14,011	≥319
Steller sea lion	*Eumetopias jubatus monteriensis.*	Eastern U.S.	-; N	41,638 (n/a; 2015)	2,498	108
Family Phocidae (earless seals):						
Harbor seal	*Phoca vitulina richardii*	Washington Northern Inland Waters [6].	-; N	11,036 (0.15; 7,213; 1999)	Undet.	9.8
		Southern Puget Sound [6]	-; N	1,568 (0.15; 1,025; 1999)	Undet.	3.4
		Hood Canal [6]	-; N	1,088 (0.15; 711; 1999)	Undet.	0.2
Northern elephant seal	*Mirounga angustirostris*	California Breeding	-; N	179,000 (n/a; 81,368; 2010)	4,882	8.8

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports at: *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable. For two stocks of killer whales, the abundance values represent direct counts of individually identifiable animals; therefore there is only a single abundance estimate with no associated CV. For certain stocks of pinnipeds, abundance estimates are based upon observations of animals (often pups) ashore multiplied by some correction factor derived from knowledge of the species' (or similar species') life history to arrive at a best abundance estimate; therefore, there is no associated CV. In these cases, the minimum abundance may represent actual counts of all animals ashore.

[3] These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, subsistence hunting, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value. All M/SI values are as presented in the draft 2018 SARs.

[4] Transient and resident killer whales are considered unnamed subspecies (Committee on Taxonomy, 2017).

[5] The abundance estimate for this stock includes only animals from the ''inner coast'' population occurring in inside waters of southeastern Alaska, British Columbia, and Washington—excluding animals from the ''outer coast'' subpopulation, including animals from California—and therefore should be considered a minimum count. For comparison, the previous abundance estimate for this stock, including counts of animals from California that are now considered outdated, was 354.

[6] Abundance estimates for these stocks are not considered current. PBR is therefore considered undetermined for these stocks, as there is no current minimum abundance estimate for use in calculation. We nevertheless present the most recent abundance estimates, as these represent the best available information for use in this document.

[7] This stock is known to spend a portion of time outside the U.S. EEZ. Therefore, the PBR presented here is the allocation for U.S. waters only and is a portion of the total. The total PBR for humpback whales is 33.4 (one half allocation for U.S. waters). Annual M/SI presented is for U.S. waters only.

Additional detail regarding the affected species and stocks, including local occurrence data for each of the six Navy facilities, was provided in our notice of proposed rulemaking (83 FR 9366; March 5, 2018) and is not repeated here.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 dB threshold from the normalized composite audiograms, with an exception for lower limits for low-frequency cetaceans where the result was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. The functional groups and the associated frequencies are indicated below (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily reflecting the capabilities of every species within that group):

- Low-frequency cetaceans (mysticetes): Generalized hearing is estimated to occur between approximately 7 Hz and 35 kHz;
- Mid-frequency cetaceans (larger toothed whales, beaked whales, and most delphinids): Generalized hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High-frequency cetaceans (porpoises, river dolphins, and members of the genera *Kogia* and *Cephalorhynchus*; including two members of the genus *Lagenorhynchus,* on the basis of recent echolocation data and genetic data): Generalized hearing is

estimated to occur between approximately 275 Hz and 160 kHz;

- Pinnipeds in water; Phocidae (true seals): Functional hearing is estimated to occur between approximately 50 Hz to 86 kHz;
- Pinnipeds in water; Otariidae (eared seals): Functional hearing is estimated to occur between 60 Hz and 39 kHz for Otariidae.

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information. Ten marine mammal species (six cetacean and four pinniped (two otariid and two phocid) species) have the potential to co-occur with Navy construction activities. Please refer to Table 2. Of the six cetacean species that may be present, three are classified as low-frequency cetaceans (*i.e.,* all mysticete species), one is classified as a mid-frequency cetacean (*i.e.,* killer whales), and two are classified as high-frequency cetaceans (*i.e.,* porpoises).

Potential Effects of the Specified Activity on Marine Mammals and Their Habitat

We provided discussion of the potential effects of the specified activity on marine mammals and their habitat in our **Federal Register** notice of proposed rulemaking (83 FR 9366; March 5, 2018). Therefore, we do not reprint the information here but refer the reader to that document. That document included a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat, as well as general background information on sound. The ''Estimated Take'' section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis and Determination'' section considers the content of this section and the material it references, the ''Estimated Take'' section, and the ''Mitigation'' section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

Estimated Take

This section provides an estimate of the number of incidental takes for authorization, which will inform both NMFS's consideration of whether the number of takes is ''small'' and the negligible impact determination.

Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Take of marine mammals incidental to Navy construction activities could occur as a result of Level A or Level B harassment. Below we describe how the potential take is estimated.

Acoustic Thresholds

We provided discussion of relevant sound thresholds in our **Federal Register** notice of proposed rulemaking (83 FR 9366; March 5, 2018) and do not repeat the information here. Generalized acoustic thresholds based on received level are used to estimate the onset of Level B harassment. These thresholds are 160 dB rms (intermittent sources) and 120 dB rms (continuous sources). Please see Table 3 for Level A harassment (auditory injury) criteria.

TABLE 3—EXPOSURE CRITERIA FOR AUDITORY INJURY

Hearing group	Peak pressure [1] (dB)	Cumulative sound exposure level [2]	
		Impulsive (dB)	Non-impulsive (dB)
Low-frequency cetaceans	219	183	199
Mid-frequency cetaceans	230	185	198
High-frequency cetaceans	202	155	173
Phocid pinnipeds	218	185	201
Otariid pinnipeds	232	203	219

[1] Referenced to 1 μPa; unweighted within generalized hearing range.
[2] Referenced to 1 μPa^2-s; weighted according to appropriate auditory weighting function.

Zones of Ensonification

Sound Propagation—We provided discussion of relevant propagation considerations in our **Federal Register** notice of proposed rulemaking (83 FR 9366; March 5, 2018) and do not repeat the information here. As is common practice in coastal waters, here we assume practical spreading loss (4.5 dB reduction in sound level for each doubling of distance). Practical spreading is a compromise that is often used under conditions where water depth increases as the receiver moves away from the shoreline, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions.

Sound Source Levels—We provided discussion of source level considerations in our **Federal Register** notice of proposed rulemaking (83 FR 9366; March 5, 2018) and do not repeat the information here. No changes have been made to the source level selections described in that notice and shown in Table 4.

TABLE 4—ASSUMED SOURCE LEVELS

Method	Type	Size (in)	SPL (rms) [1]	SPL (peak) [1 2]	SEL [1 3]
Impact	Plastic	13	156	Not available	Not available.
	Timber	12/14	170	Not available	Not available.
	Concrete	18	170	184	159.
		24	178	189	166.

TABLE 4—ASSUMED SOURCE LEVELS—Continued

Method	Type	Size (in)	SPL (rms) [1]	SPL (peak) [1 2]	SEL [1 3]
	Steel pipe	12/13	177	192	167.
		14	184	200	174.
		24	193	210	181.
		30	195	216	186.
		36	194 (Bangor); 192 (others).	211	181 (Bangor); 184 (others).
Vibratory	Timber	12	153	n/a	n/a.
		13/14	155	n/a	n/a.
	Steel pipe	13/14	155	n/a	n/a.
		16/24	161	n/a	n/a.
		30/36	166 (Bangor); 167 (others).	n/a	n/a.
	Steel sheet	n/a	163	n/a	n/a.

[1] Source levels presented at standard distance of 10 m from the driven pile. Peak source levels are not typically evaluated for vibratory pile driving, as they are lower than the relevant thresholds for auditory injury. SEL source levels for vibratory driving are equivalent to SPL (rms) source levels.

The Navy will use bubble curtains when impact driving steel piles of 24-in diameter and greater, except at NBK Bremerton and NBK Keyport (see Mitigation for further discussion). For the reasons described in our **Federal Register** notice of proposed rulemaking (83 FR 9366; March 5, 2018), we assume here that use of the bubble curtain would result in a reduction of 8 dB from the assumed SPL (rms) and SPL (peak) source levels for these pile sizes, and reduce the applied source levels accordingly. For determining distances to the cumulative SEL injury thresholds, auditory weighting functions were applied to the attenuated one-second SEL spectra for steel pipe piles (see Appendix E of the Navy's application).

Level A Harassment—In order to assess the potential for injury on the basis of the cumulative SEL metric, one must estimate the total strikes per day (impact driving) or the total driving duration per day (vibratory driving). Estimates of total strikes per day and total driving duration per day, shown in Table 5, were described in detail in our notice of proposed rulemaking, and are unchanged (83 FR 9366; March 5, 2018). Table 5 presents an estimate of average strikes per day; average strikes per day and average daily duration values are used in the exposure analyses. For vibratory driving of piles less than 16-in, a daily duration of 0.5 hours was assumed; for vibratory driving of larger piles a daily duration of 2.25 hours was assumed.

TABLE 5—ESTIMATED DAILY STRIKES AND DRIVING DURATION

Pile type and method	Installation rate per day	Estimated duration	
		Average strikes/day	Average daily duration
14-in steel; impact	No data	[1] <<1,000	No data.
24- to 30-in steel; impact	1–6	1,000	4.5 minutes to 1.5 hours.
18- to 24-in concrete; impact	1–11	[2] 4,000	3 minutes to 4 hours.
13-in steel; vibratory	2–17	n/a	0–31 minutes.[3]
24- to 30-in steel; vibratory	1–6	n/a	10 minutes to 4.5 hours.[4]

[1] All 14-in piles are expected to be vibratory driven for full embedment depth. In the event that conditions requiring impact driving are encountered, very few strikes are expected to be necessary.
[2] Estimate based on data from 272 piles installed at NBK Bremerton.
[3] Estimate based on data from 70 piles installed at NBK Bremerton.
[4] Estimate based on data from 809 piles installed at NBK Bangor. Maximum assumes six piles advanced at a rate of 45 minutes per pile.

Delineation of potential injury zones on the basis of the peak pressure metric was performed using the SPL(peak) values provided in Table 4 above. Source levels for peak pressure are unweighted within the generalized hearing range, while SEL source levels are weighted according to the appropriate auditory weighting function. As discussed in detail in the notice of proposed rulemaking (83 FR 9366; March 5, 2018), delineation of potential injury zones on the basis of the cumulative SEL metric for vibratory driving was performed using the NMFS User Spreadsheet. This relatively simple approach will typically result in higher predicted exposures for broadband sounds, since only one frequency is being considered, compared to exposures associated with the ability to fully incorporate the Technical Guidance's weighting functions.

Because use of the WFA typically results in an overestimate of zone size, the Navy took an alternative approach to delineating potential injury zones for impact driving of 24- and 36-in steel piles and 24-in concrete piles. Note that, because data is not available for all pile sizes and types, we conservatively assume the following in using the available data for 24- and 36-in steel piles and 24-in concrete piles: (1) Injury zones for impact driving 14- and 24-in piles are equivalent to the zones for 24-in piles with no bubble curtain; (2) injury zones for impact driving plastic and timber piles and for 18-in concrete piles are equivalent to the zones for 24-in concrete piles; and (3) injury zones for impact driving 30-in steel piles are equivalent to the zones calculated for 36-in piles (both with and without bubble curtain).

This approach, described in detail in Appendix E of the Navy's application, incorporated frequency weighting

adjustments by applying the auditory weighting function over the entire one-second SEL spectral data sets from impact pile driving. If this information for a particular pile size was not available, the next highest source level was used to produce a conservative estimate of areas above threshold values. Sound level measurements from construction activities during the 2011 Test Pile Program at NBK Bangor were used for evaluation of impact-driven steel piles, and sound level measurements from construction activities during the 2015 Intermediate Maintenance Facility Pier 6 Fender Pile Replacement Project at NBK Bremerton were used for evaluation of impact-driven concrete piles.

In consideration of the assumptions relating to propagation, sound source levels, and the methodology applied by the Navy towards incorporating frequency weighting adjustments for delineation of cumulative SEL injury zones for impact driving of steel and concrete piles, notional radial distances to relevant thresholds were calculated (Table 6). However, these distances are sometimes constrained by topography. Actual notional ensonified zones at each facility are shown in Tables 6–1 to 6–6b of the Navy's application. These zones are modeled on the basis of a notional pile located at the seaward end of a given structure in order to provide a conservative estimate of ensonified area.

TABLE 6—CALCULATED DISTANCES TO LEVEL A HARASSMENT ZONES

Pile	Driver	PW		OW		LF		MF		HF	
		pk	cSEL	pk	cSEL	pk	cSEL	pk	cSEL	pk	cSEL
24-in concrete [1]	Impact	0	34	0	2	0	216	0	3	1	136
24-in steel [2]	Impact; BC	1	25	0	1.4	1	136	0	3	10	185
24-in steel [2]	Impact; no BC	3	86	0	5	3	159	0	6	34	342
36-in steel [2]	Impact; BC	1	158	0	9	1	736	0	10	12	541
36-in steel [2]	Impact; no BC	3	736	0	46	3	2,512	1	63	40	2,512
12- to 14-in timber [3]	Vibratory	n/a	1	n/a	<1	n/a	2	n/a	<1	n/a	3
16- and 24-in steel [4]	Vibratory	n/a	7	n/a	1	n/a	12	n/a	1	n/a	17
30- and 36-in steel (Bangor) [4].	Vibratory	n/a	15	n/a	11	n/a	25	n/a	2	n/a	37
30- and 36-in steel (others) [4].	Vibratory	n/a	18	n/a	1	n/a	30	n/a	3	n/a	43
Sheet steel [4]	Vibratory	n/a	10	n/a	1	n/a	16	n/a	1	n/a	24

PW = Phocid; OW = Otariid; LF = low frequency; MF = mid frequency; HF = high frequency; pk = peak pressure; cSEL = cumulative SEL; BC = bubble curtain

[1] Assumes 4,000 strikes per day.

[2] Assumes 1,000 strikes per day. Bubble curtain will be used for 24-, 30-, and 36-in steel piles except at NBK Bremerton and NBK Keyport. Steel piles will not be installed at NBK Manchester.

[3] Assumes 30 minute daily driving duration.

[4] Assumes 2.25 hour daily driving duration.

Summary—Here, we summarize facility-specific information about piles to be removed and installed. In general, it is likely that pile removals may be accomplished via a combination of methods (*e.g.,* vibratory driver, cut at mudline, direct pull). However, for purposes of analysis we assume that all removals would be via vibratory driver. In addition, we assume that installation of all steel piles larger than 14-in would require use of both impact and vibratory drivers, although it is likely that some of these piles would be installed solely via use of the vibratory driver. All concrete, timber, and plastic piles would be installed solely via impact driver. Steel sheet piles and steel pipe piles of 14-in diameter and smaller would be installed solely via vibratory driver. All piles removed are assumed to be replaced at a 1:1 ratio, although it is likely that a lesser number of replacement piles would be required. For full details, please see Appendix A of the Navy's application.

• NBK Bangor: The Navy anticipates ongoing maintenance work at the older Explosives Handling Wharf (EHW–1), including removal and replacement of up to 44 piles. Replacement of up to 75 piles is anticipated for contingency repairs at any existing structure. Piles to be removed would be steel, timber, and/or concrete, and replacement piles would be steel and/or concrete. As a conservative scenario, all piles are assumed to be 36-in steel for purposes of analysis.

• Zelatched Point: Replacement of up to 20 piles is anticipated for contingency repairs. Piles to be removed would be 12-in timber piles, while replacement piles could be steel, timber, and/or concrete. As a conservative scenario, all replacement piles are assumed to be 36-in steel for purposes of analysis.

• NBK Bremerton: The Navy anticipates ongoing maintenance work at multiple existing structures. At Pier 5, 360 timber fender piles would be removed and replaced with concrete piles. Timber piles are assumed to be 14-in diameter, and concrete piles are assumed to be 24-in. At Pier 4, 80 timber fender piles would be replaced with steel piles—timber and steel piles are assumed to be 14-in diameter. Anticipated repairs to other piers would require removal of up to 20 timber piles, followed by installation of steel sheet piles. Replacement of up to 75 piles is anticipated for contingency repairs at any existing structure. Piles to be removed would be steel and/or timber, and replacement piles would be 24-in concrete. The largest estimated Level B harassment zone of influence (ZOI) results from vibratory driving of sheet piles, which is expected to occur for only twenty of the estimated total of 168 activity days. The Navy has elected to assume this largest estimated ZOI for all 168 activity days as a conservative scenario.

• NBK Keyport: Replacement of up to 20 piles is anticipated for contingency repairs. Piles to be removed would be steel and/or concrete (up to 18-in), while replacement piles would be steel. As a conservative scenario, all replacement piles are assumed to be 36-in steel for purposes of analysis.

• NBK Manchester: Replacement of up to 50 piles is anticipated for contingency repairs. Piles to be removed would be timber and/or plastic (up to 18-in), while replacement piles could be timber, plastic, and/or concrete. As a

conservative scenario, all replacement piles are assumed to be 24-in concrete for purposes of analysis.

• NS Everett: The Navy anticipates minor repairs at the North Wharf, requiring replacement of two concrete piles (assumed to be 24-in). Replacement of up to 76 piles is anticipated for contingency repairs. Piles to be removed would include one steel pile and 75 timber piles. The one steel pile would be replaced by a 36-in steel pile, while the timber piles could be replaced by concrete and/or timber piles. As a conservative scenario, these replacement piles are assumed to be 24-in concrete for purposes of analysis.

Level B harassment zones and associated areas of ensonification are identified in Table 7 below. Although not all zones are applied to the exposure analysis, these may be effected as part of the required monitoring. Ensonified areas vary based on topography in the vicinity of the facility and are provided for each relevant facility.

TABLE 7—RADIAL DISTANCES TO RELEVANT BEHAVIORAL ISOPLETHS AND ASSOCIATED ENSONIFIED AREAS

Pile size and type	Impact (160-dB rms) [1]	Ensonified Area [2]	Vibratory 120-dB) [3]	Ensonified area [2]
Plastic (13-in)	5	0.001	n/a	n/a.
Timber (12-in)	46	0.01	1.6	3.8 (Manchester Finger Pier); 4.6 (Manchester Fuel Pier).
Timber (13/14-in) [4]	46	0.01	2.2	6.8 (Bremerton); 5.9 (Manchester Finger Pier); 7.8 (Manchester Fuel Pier);[6] 9.4 (Everett).
Concrete (24-in) [4]	159	0.08	n/a	n/a.
Steel (14-in)	398	0.5 (Bremerton)	2.2	6.8 (Bremerton)
Steel (24-in; BC)	464	0.54 (Bangor); 0.48 (Zelatched Point).	n/a	n/a.
Steel (24-in; no BC) [5]	1,585	2.09 (Keyport)	5.4	26.8 (Bangor); 4.9 (Keyport); 37.9 (Zelatched Point).
Steel (30-in; BC)	631	0.91 (Bangor); 0.85 (Zelatched Point); 1.2 (Everett).	n/a	n/a.
Steel (30-in; no BC)	2,154	1.94 (Keyport)	Same as 36-in	Same as 36-in.
Steel (36-in; BC)	541 (Bangor); 398 (others)	0.7 (Bangor); 0.36 (Zelatched Point); 0.5 (Everett).	n/a	n/a.
Steel (36-in; no BC)	1,359	0.42 (Keyport)	11.7 (Bangor); 13.6 (others).	4.9 (Keyport); 75.24 (Zelatched Point); 117.8 (Everett); 40.9 (Bangor).
Sheet steel	n/a	n/a	7.4	15.0 (Bremerton).

BC = bubble curtain.
[1] Radial distance to threshold in meters.
[2] Ensonified area in square kilometers.
[3] Radial distance to threshold in kilometers.
[4] Zones for impact driving of 18-in concrete piles are equivalent to those for impact driving of timber piles. Zones for vibratory removal of up to 18-in diameter plastic/timber piles are assumed to be equivalent to those for 13/14-in timber piles.
[5] Zones for vibratory driving of 16-in steel piles assumed equivalent to those for 24-in steel piles.
[6] Worst-case values for vibratory extraction of timber/plastic piles at NBK Manchester, where piles to be removed are a maximum 18-in diameter.

Marine Mammal Occurrence

Available information regarding marine mammal occurrence in the vicinity of the six installations includes density information aggregated in the Navy's Marine Mammal Species Density Database (NMSDD; Navy, 2015) or site-specific survey information from particular installations (*e.g.,* local pinniped counts). More recent density estimates for harbor porpoise are available in Smultea *et al.* (2017). First, for each installation we describe anticipated frequency of occurrence and the information deemed most appropriate for the exposure estimates. For all facilities, large whales (humpback whale, minke whale, and gray whale), killer whales (transient and resident), and the elephant seal are considered as occurring only rarely and unpredictably, on the basis of past sighting records. For these species, average group size is considered in concert with expected frequency of occurrence to develop the most realistic exposure estimate. Although certain species are not expected to occur at all at some facilities—for example, resident killer whales are not expected to occur in Hood Canal—the Navy has developed an overall take estimate and request for these species that would apply to activities occurring over the 5-year duration at all six installations.

• NBK Bangor: In addition to the species described above, the Dall's porpoise is considered as a rare, unpredictably occurring species. A density-based analysis is used for the harbor porpoise, while data from site-specific abundance surveys is used for the California sea lion, Steller sea lion, and harbor seal.

• Zelatched Point: In addition to the species described above, the Dall's porpoise is considered as a rare, unpredictably occurring species. A density-based analysis is used for the harbor porpoise, California sea lion, Steller sea lion, and harbor seal.

• NBK Bremerton: A density-based analysis is used for the harbor porpoise, Dall's porpoise, and Steller sea lion, while data from site-specific abundance surveys is used for the California sea lion and harbor seal.

• NBK Keyport: A density-based analysis is used for the harbor porpoise, Dall's porpoise, California sea lion, Steller sea lion, and harbor seal.

• NBK Manchester: A density-based analysis is used for the harbor porpoise, Dall's porpoise, and harbor seal, while data from site-specific abundance surveys is used for the California sea lion and Steller sea lion.

• NS Everett: A density-based analysis is used for the harbor porpoise, Dall's porpoise, and Steller sea lion, while data from site-specific abundance surveys is used for the California sea lion and harbor seal.

TABLE 8—MARINE MAMMAL DENSITIES

Species	Region	Density (June–February)
Harbor porpoise	Hood Canal (Bangor, Zelatched Point)	0.44
	East Whidbey (Everett)	0.75
	Bainbridge (Bremerton, Keyport)	0.53
	Vashon (Manchester)	0.25
Dall's porpoise	Puget Sound	0.039
Steller sea lion	Puget Sound	0.0368
	Dabob Bay	0.0251
California sea lion	Puget Sound	0.1266
	Dabob Bay	0.279
Harbor seal	Everett	2.2062
	Keyport/Manchester	1.219
	Dabob Bay	9.918

Sources: Navy, 2015; Smultea *et al.,* 2017 (harbor porpoise).

Exposure Estimates

To quantitatively assess exposure of marine mammals to noise from pile driving activities, we use three methods, determined by the species' spatial and temporal occurrence. For species with rare or infrequent occurrence at a given installation during the in-water work window, the likelihood of interaction was reviewed on the basis of past records of occurrence (described in detail in our **Federal Register** notice of proposed rulemaking (83 FR 9366; March 5, 2018)) and the potential maximum duration of work days at each installation, as well as total work days for all installations. Occurrence of the species in this category (*i.e.,* large whales, killer whales, elephant seal (all installations), and Dall's porpoise (Hood Canal)) would not be anticipated to extend for multiple days. For the large whales and killer whales, the duration of occurrence was set to two days, expected to be roughly equivalent to one transit in the vicinity of a project site. The calculation for species with rare or infrequent occurrence is:

Exposure estimate = expected group size × probable duration

For species that occur regularly but for which site-specific abundance information is not available, density estimates (Table 8) were used to determine the number of animals potentially exposed on any one day of pile driving or extraction. The calculation for density-based analysis of species with regular occurrence is:

Exposure estimate = N (density) × ZOI (area) × maximum days of pile driving

For remaining species, site-specific abundance information (*i.e.,* average monthly maximum over the time period when pile driving will occur) was used:

Exposure estimate = Abundance × maximum days of pile driving

Large Whales—For each species of large whale (*i.e.,* humpback whale, minke whale, and gray whale), we assume rare and infrequent occurrence at all installations. For all three species, if observed, they typically occur singly or in pairs. Therefore, for all three species, we assume that a pair of whales may occur in the vicinity of an installation for a total of two days. We do not expect that this would happen multiple times, and cannot predict where such an occurrence may happen, so would authorize a total of four takes by Level B harassment of each species in total for the 5-year duration (across all installations).

It is important to note that the Navy will implement a shutdown of pile driving activity if any large whale is observed within any defined harassment zone (see Mitigation section below). Therefore, the take number is intended to provide insurance against the event that whales occur within Level B harassment zones that cannot be fully observed by monitors. As a result of this mitigation, we do not believe that Level A harassment is a likely outcome upon occurrence of any large whale. While the calculated Level A harassment zone is as large as 2.5 km for impact driving of 36-in steel piles without a bubble curtain (ranging from 136–736 m for other impact driving scenarios), this requires that a whale be present at that range for the full assumed duration of 1,000 pile strikes (expected to require 1.5 hours). Given the Navy's commitment to shut down upon observation of a large whale, and the likelihood that the presence of a large whale in the vicinity of any Navy installation would be known due to reporting via Orca Network (see Monitoring and Reporting), we do not expect that any whale would be present within a Level A harassment zone for sufficient duration to actually experience permanent threshold shift (PTS).

Killer Whales—For killer whales, the take number is derived via the same process described above for large whales. For transient killer whales, we assume an average group size of six whales occurring for a period of two days. The resulting total take number of 12 would also account for the low probability that a larger group occurred once. For resident killer whales, we assume an average group size of 20 whales occurring for two days. This is equivalent to the expected pod size for J pod, which is most likely to occur in the vicinity of Navy installations, but would also account for the unlikely occurrence of L pod (with a size of approximately 40 whales) once in the vicinity of any Navy installation.

As with large whales, the Navy will implement shutdown of pile driving activity at any time that any killer whale is observed within any calculated harassment zone. We expect this to minimize the extent and duration of any Level B harassment. Given the small size of calculated Level A harassment zones—maximum of 63 m for the worst-case scenario of impact-driven 36-in steel piles with no bubble curtain, other scenarios range from 1–10 m—we do not anticipate any potential for Level A harassment of killer whales.

Dall's Porpoise—Using the density given in Table 8, the largest appropriate

ZOI for each of the four installations in Puget Sound, and the number of days associated with each of these installations (as indicated in harbor porpoise section below), the total estimated exposure of Dall's porpoises above Level B harassment thresholds is 146. Dall's porpoises are not expected to occur in Hood Canal. Dall's porpoises are not expected to occur frequently in the vicinity of Navy installations and have not been reported in recent years. This total take authorization number (146) is applied to all installations over the 5-year duration.

The Navy will implement shutdown of pile driving activity at any time if a Dall's porpoise is observed in any harassment zone. Therefore, the take estimate is precautionary in accounting for potential occurrence in areas that cannot be visually observed or in the event that porpoises appear within Level B harassment zones before shutdown can be implemented. As was described for large whales, as a result of this mitigation, we do not believe that Level A harassment is a likely outcome. While the calculated Level A harassment zone is as large as 2.5 km for impact driving of 36-in steel piles without a bubble curtain (ranging from 136–541 m for other impact driving scenarios), this requires that a porpoise be present at that range for the full assumed duration of 1,000 pile strikes (expected to require 1.5 hours). Given the Navy's commitment to shut down upon observation of a porpoise, and the likelihood that a porpoise would engage in aversive behavior prior to experiencing PTS, we do not expect that any porpoise would be present within a Level A harassment zone for sufficient duration to actually experience PTS.

Harbor Porpoise—Level B harassment estimates for harbor porpoise were calculated for each installation using the appropriate density given in Table 8, the largest appropriate ZOI for each installation, and the appropriate number of days.

- NBK Bangor: Using the Hood Canal sub-region density, 119 days of pile driving, and the largest ZOI calculated for pile driving at this location (40.9 km^2 for vibratory installation of 30- or 36-in steel piles) produces an estimate of 2,142 incidents of Level B harassment exposure for harbor porpoise.
- Zelatched Point: Using the Hood Canal sub-region density, 20 days of pile driving, and the largest ZOI calculated for pile driving at this location (75.24 km^2 for vibratory installation of 30- or 36-in steel piles) produces an estimate of 662 incidents of Level B harassment exposure for harbor porpoise.
- NBK Bremerton: Using the Bainbridge sub-region density, 168 days of pile driving, and the largest ZOI calculated for pile driving at this location (15 km^2 for vibratory installation of sheet steel piles) produces an estimate of 1,336 incidents of Level B harassment exposure for harbor porpoise.
- NBK Keyport: Using the Bainbridge sub-region density, 20 days of pile driving, and the largest ZOI calculated for pile driving at this location (4.9 km^2 for vibratory installation of 30- or 36-in steel piles) produces an estimate of 52 incidents of Level B harassment exposure for harbor porpoise.
- NBK Manchester: Using the Vashon sub-region density, 50 days of pile driving, and the largest ZOI calculated for vibratory removal of timber piles (7.8 km^2 for vibratory extraction of timber piles) produces an estimate of 98 incidents of Level B harassment exposure for harbor porpoise.
- NS Everett: Using the East Whidbey sub-region density, 78 days of pile driving, and the largest ZOI calculated for vibratory extraction of timber piles (9.4 km^2) produces an estimate of 552 incidents of Level B harassment exposure for harbor porpoise. Although some vibratory installation is anticipated for a single steel pile, we anticipate this would occur for only a brief period. Therefore, use of the assumed zone for vibratory extraction of timber piles is appropriate in accounting for reasonably expected marine mammal exposure at this location.

The Navy will implement shutdown of pile driving activity at any time if a harbor porpoise is observed in any harassment zone. Therefore, the take estimate is precautionary in accounting for potential occurrence in areas that cannot be visually observed or in the event that porpoises appear within Level B harassment zones before shutdown can be implemented. As was described for large whales, as a result of this mitigation, we do not believe that Level A harassment is a likely outcome. While the calculated Level A harassment zone is as large as 2.5 km for impact driving of 36-in steel piles without a bubble curtain (ranging from 136–541 m for other impact driving scenarios), this requires that a porpoise be present at that range for the full assumed duration of 1,000 pile strikes (expected to require 1.5 hours). Given the Navy's commitment to shut down upon observation of a porpoise, and the likelihood that a porpoise would engage in aversive behavior prior to experiencing PTS, we do not expect that any porpoise would be present within a Level A harassment zone for sufficient duration to actually experience PTS.

Steller Sea Lion—Level B harassment exposure estimates for Steller sea lions were calculated for each installation using the appropriate density given in Table 8 or site-specific abundance, the largest appropriate ZOI for each installation, and the appropriate number of days. Additional detail regarding site-specific abundance information was provided in our **Federal Register** notice of proposed rulemaking (83 FR 9366; March 5, 2018).

- NBK Bangor: The average of the monthly maximum counts during the in-water work window provides an estimate of three Steller sea lions present per day. Using this value for 119 days results in an estimate of 357 incidents of Level B harassment exposure.
- Zelatched Point: Using the Dabob Bay density value (Table 8), 20 days of pile driving, and the largest ZOI calculated for pile driving at this location (75.24 km^2 for vibratory installation of 30- or 36-in steel piles) produces an estimate of 38 incidents of Level B harassment exposure for Steller sea lions.
- NBK Bremerton: Using the Puget Sound density value (Table 8), 168 days of pile driving, and the largest ZOI calculated for pile driving at this location (15 km^2 for vibratory installation of sheet steel piles) produces an estimate of 93 incidents of Level B harassment exposure for Steller sea lions.
- NBK Keyport: Using the Puget Sound density value (Table 8), 20 days of pile driving, and the largest ZOI calculated for pile driving at this location (4.9 km^2 for vibratory installation of 30- or 36-in steel piles) produces an estimate of four incidents of Level B harassment exposure for Steller sea lions.
- NBK Manchester: Site-specific occurrence data indicate that 10 Steller sea lions may be present on any given day. Using this average value for 50 days results in an estimate of 500 incidents of Level B harassment exposure.
- NS Everett: Using the Puget Sound density value (Table 8), 78 days of pile driving, and the largest ZOI calculated for this location (9.4 km^2) produces an estimate of 27 incidents of Level B exposure for Steller sea lion.

Given the small size of calculated Level A harassment zones—maximum of 43 m for the worst-case scenario of impact-driven 36-in steel piles with no bubble curtain, other scenarios range from 1–11 m—we do not anticipate any

potential for Level A harassment of Steller sea lions.

California Sea Lions—Level B harassment exposure estimates for California sea lions were calculated for each installation using the appropriate density given in Table 8 or site-specific abundance, the largest appropriate ZOI for each installation, and the appropriate number of days. Additional detail regarding site-specific abundance information was provided in our **Federal Register** notice of proposed rulemaking (83 FR 9366; March 5, 2018).

• NBK Bangor: The average of the monthly maximum counts during the in-water work window provides an estimate of 49 California sea lions per day. Using this value for 119 days results in an estimate of 5,831 incidents of Level B harassment exposure.

• Zelatched Point: Using the Dabob Bay density value (Table 8), 20 days of pile driving, and the largest ZOI calculated for pile driving at this location (75.24 km² for vibratory installation of 30- or 36-in steel piles) produces an estimate of 420 incidents of Level B harassment exposure for California sea lions.

• NBK Bremerton: The average of the monthly maximum counts during the in-water work window provides an estimate of 69 California sea lions per day. Using this value for 168 days results in an estimate of 11,592 incidents of Level B harassment exposure.

• NBK Keyport: Using the Puget Sound density value (Table 8), 20 days of pile driving, and the largest ZOI calculated for pile driving at this location (4.9 km² for vibratory installation of 30- or 36-in steel piles) produces an estimate of 12 incidents of Level B harassment exposure for California sea lions.

• NBK Manchester: Site-specific occurrence data indicate that 43 California sea lions may be present on any given day. Using this average value for 50 days results in an estimate of 2,150 incidents of Level B harassment exposure.

• NS Everett: The average of the monthly maximum counts during the in-water work window provides an estimate of 66 California sea lions per day. Using this value for 78 days results in an estimate of 5,148 incidents of Level B harassment exposure.

Given the small size of calculated Level A harassment zones—maximum of 43 m for the worst-case scenario of impact-driven 36-in steel piles with no bubble curtain, other scenarios range from 1–11 m—we do not anticipate any potential for Level A harassment of California sea lions.

Harbor Seal—Harbor seals are expected to occur year-round at all installations, with the greatest numbers expected at installations with nearby haul-out sites. Level B harassment exposure estimates for harbor seals were calculated for each installation using the appropriate density given in Table 8 or site-specific abundance, the largest appropriate ZOI for each installation, and the appropriate number of days. Additional detail regarding site-specific abundance information was provided in our **Federal Register** notice of proposed rulemaking (83 FR 9366; March 5, 2018).

Harbor seals are expected to be the most abundant marine mammal at all installations, often occurring in and around existing in-water structures in a way that may restrict observers' ability to adequately observe seals and subsequently implement shutdowns. In addition, the calculated Level A harassment zones are significantly larger than those for sea lions, which may also be abundant at various installations at certain times of year. For harbor seals, the largest calculated Level A harassment zone is 736 m (compared with a maximum zone of 43 m for sea lions), calculated for the worst-case scenario of impact-driven 36-in steel piles without use of the bubble curtain. Other scenarios range from 25–158 m. Therefore, we assume that some Level A harassment is likely to occur for harbor seals and provide installation-specific estimates below.

• NBK Bangor: Site-specific occurrence data indicate that as many as 28 harbor seals hauled out per day under Marginal Wharf (or were observed swimming in adjacent waters). Assuming a few other individuals may be present elsewhere on the Bangor waterfront, we estimate that 35 harbor seals may be present per day near the installation during summer and early fall, which are expected to be months with greatest abundance of seals. Using this value for 119 days results in an estimate of 4,165 incidents of Level B harassment exposure.

Considering the largest Level A harassment zone expected to typically occur at NBK Bangor (158 m), and assuming as a precaution that one seal per day could remain within the calculated zone for a sufficient period to accumulate enough energy to result in PTS, we estimate 119 incidents of take by Level A harassment. It is important to note that the estimate of potential Level A harassment for NBK Bangor is expected to be an overestimate, as planned projects are not expected to occur near Marginal Wharf—the location where most harbor seal activity occurs.

• Zelatched Point: Using the Dabob Bay density value (Table 8), 20 days of pile driving, and the largest ZOI calculated for pile driving at this location (75.24 km² for vibratory installation of 30- or 36-in steel piles) produces an estimate of 14,925 incidents of Level B harassment exposure for harbor seals. The largest calculated Level A harassment zone at Zelatched Point would be 158 m. However, because harbor seals are not known to haul out or congregate in the vicinity of in-water structures, as is the case at NBK Bangor, we do not anticipate that Level A harassment will occur at Zelatched Point and will not authorize such take.

• NBK Bremerton: Site-specific occurrence data indicate that approximately 11 harbor seals may be present per day. Using this value for 168 days results in an estimate of 1,848 incidents of Level B harassment exposure. The largest Level A harassment zone at NBK Bremerton would be 86 m and, given the lack of regular presence of harbor seals in close proximity to existing in-water structures, we do not anticipate that Level A harassment will occur at NBK Bremerton and will not authorize such take.

• NBK Keyport: No harbor seal haul-outs have been identified at this installation. Using the Puget Sound density value (Table 8), 20 days of pile driving, and the largest ZOI calculated for pile driving at this location (4.9 km² for vibratory installation of 30- or 36-in steel piles) produces an estimate of 119 incidents of Level B harassment exposure for harbor seals. Given the lack of haul-outs and of regular harbor seal presence at this installation, we do not anticipate that Level A harassment will occur at NBK Keyport and will not authorize such take.

• NBK Manchester: No harbor seal haul-outs have been identified at this installation. Using the appropriate density value (Table 8), 50 days of pile driving, and the largest ZOI calculated for vibratory extraction of timber piles (7.8 km²) produces an estimate of 477 incidents of Level B harassment exposure for harbor seals. Given the lack of haul-outs and of regular harbor seal presence at this installation, we do not anticipate that Level A harassment will occur at NBK Manchester and will not authorize such take.

• NS Everett: The average of the monthly maximum counts during the in-water work window provides an estimate of 212 seals per day. Using this

value for 78 days results in an estimate of 16,536 incidents of Level B harassment exposure.

The largest Level A harassment zone calculated for NS Everett (158 m) would occur for only one day during impact driving of the single 36-in steel pile. During the remainder of pile driving at this installation, the largest Level A harassment zone would be 34 m (impact driving of 24-in concrete piles). Given the abundant seal population at this site, we assume that some portion of the seal population may be present and unobserved within these zones for a sufficient period to accumulate enough energy to result in PTS. For the larger zone, we assume that 11 seals (five percent of animals present) may occur within the Level A harassment zone for such a duration, while for the smaller zone associated with concrete piles, we assume that two seals (one percent of animals present) of the population may occur within the zone for such a duration. Therefore, we estimate a total number of 165 incidents of take by Level A harassment (*i.e.,* two seals on each of the 77 concrete pile driving days in addition to 11 seals on the one day on which a steel pile would be installed).

Northern Elephant Seal—Northern elephant seals are considered rare visitors to Puget Sound. However, solitary juvenile elephant seals have been known to sporadically haul out to molt in Puget Sound during spring and summer months. Because there are occasional sightings in Puget Sound, we reason that exposure of up to one seal to noise above Level B harassment thresholds could occur for a two-day duration. This event could occur at any installation over the 5-year duration of these regulations.

The total amount of take by Level B harassment that may be authorized for all species and installations is summarized in Table 9 below. Take by Level A harassment may be authorized only for harbor seals occurring at NBK Bangor and NS Everett (a total of 284 such incidents, as detailed above).

TABLE 9—ESTIMATED TAKE BY LEVEL B HARASSMENT

Species	Bangor	Zelatched Point	Bremerton	Keyport	Manchester	Everett	Total	Percent [1]
Humpback whale	Applies across all installations						4	0.2
Minke whale	Applies across all installations						4	0.02
Gray whale	Applies across all installations						4	0.6
Killer whale (transient)	Applies across all installations						12	4.9
Killer whale (resident)	Applies across all installations						40	48.2
Dall's porpoise	Applies across all installations						146	0.6
Harbor porpoise	2,142	662	1,336	52	98	552	4,842	43.1
Steller sea lion	357	38	93	4	500	27	1,019	2.4
California sea lion	5,831	420	11,592	12	2,150	5,148	25,153	8.5
Harbor seal	4,680	14,925	1,848	119	477	16,536	38,585	n/a
Elephant seal	Applies across all installations						2	0.001

[1] Please see Small Numbers Analysis for more details about these percentages.

Mitigation

Under Section 101(a)(5)(A) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (''least practicable adverse impact''). NMFS does not have a regulatory definition for ''least practicable adverse impact.'' However, NMFS's implementing regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, implementation of the measure(s) is expected to reduce impacts to marine mammal species or stocks, their habitat, and their availability for subsistence uses. This analysis will consider such things as the nature of the potential adverse impact (such as likelihood, scope, and range), the likelihood that the measure will be effective if implemented, and the likelihood of successful implementation.

(2) The practicability of the measure for applicant implementation. Practicability of implementation may consider such things as cost, impact on operations, personnel safety, and practicality of implementation.

The mitigation strategies described below largely follow those required and successfully implemented under previous incidental take authorizations issued in association with similar construction activities. Measurements from similar pile driving events were coupled with practical spreading loss and other relevant information to estimate ZOIs (see ''Estimated Take''); these ZOI values were used to develop mitigation measures for pile driving activities at the six installations. Background discussion related to underwater sound concepts and terminology was provided in our **Federal Register** notice of proposed rulemaking (83 FR 9366; March 5, 2018). The ZOIs were used to inform the mitigation zones that would be established to prevent Level A harassment and to minimize Level B harassment for all cetacean species, while providing estimates of the areas within which Level B harassment might occur.

During installation of steel piles, the Navy will use vibratory driving to the maximum extent practicable. In addition to the specific measures described later in this section, the Navy will conduct briefings for construction

supervisors and crews, the marine mammal monitoring team, and Navy staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, the marine mammal monitoring protocol, and operational procedures. Other mitigation requirements committed to by the Navy but not relating to marine mammals (*e.g.,* construction best management practices) are described in section 11 of the Navy's application.

Timing

As described previously, the Navy will adhere to in-water work windows designed for the protection of fish. These timing windows would also benefit marine mammals by limiting the annual duration of construction activities. At NBK Bangor and Zelatched Point, the Navy will adhere to a July 16 through January 15 window, while at the remaining facilities this window is extended to February 15.

On a daily basis, in-water construction activities will occur only during daylight hours (sunrise to sunset) except from July 16 to September 15 when impact pile driving will only occur starting two hours after sunrise and ending two hours before sunset in order to protect marbled murrelets (*Brachyramphus marmoratus*) during the nesting season.

Monitoring and Shutdown for Pile Driving

The following measures apply to the Navy's mitigation through shutdown and disturbance zones:

Shutdown Zone—The purpose of a shutdown zone is to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of a marine mammal entering the defined area), thus preventing some undesirable outcome, such as auditory injury or behavioral disturbance of sensitive species (serious injury or death are unlikely outcomes even in the absence of mitigation measures). For all pile driving activities, the Navy will establish a minimum shutdown zone with a radial distance of 10 m. This minimum zone is intended to prevent the already unlikely possibility of physical interaction with construction equipment and to establish a precautionary minimum zone with regard to acoustic effects.

Relevant information regarding Level A harassment zones was provided in Tables 3–5 and calculated isopleth distances were provided in Table 6. In many cases, especially for vibratory driving, the minimum shutdown zone of 10 m is expected to contain the area in which auditory injury could occur. In all circumstances where the predicted Level A harassment zone exceeds the minimum zone, the Navy shall implement a shutdown zone equal to the predicted Level A harassment zone (see Table 6). In addition, the Navy will implement shutdown upon observation of any cetacean within a calculated Level B harassment zone (see Table 7).

Disturbance Zone—Disturbance zones are the areas in which sound pressure levels equal or exceed 160 and 120 dB rms (for impact and vibratory pile driving, respectively). Disturbance zones provide utility for monitoring conducted for mitigation purposes (*i.e.,* shutdown zone monitoring) by establishing monitoring protocols for areas adjacent to the shutdown zones and, as noted above, the disturbance zones act as de facto shutdown zones for cetaceans. Monitoring of disturbance zones enables observers to be aware of and communicate the presence of marine mammals in the project area but outside the shutdown zone, and thus prepare for potential shutdowns of activity. For cetaceans, the Navy will implement shutdowns upon observation of any cetacean within a disturbance zone (while acknowledging that some disturbance zones are too large to practicably monitor)—these will also be recorded as incidents of harassment. For pinnipeds, the primary purpose of disturbance zone monitoring is for documenting incidents of Level B harassment; disturbance zone monitoring is discussed in greater detail later (see ''Monitoring and Reporting''). Nominal radial distances for disturbance zones are shown in Table 7.

In order to document observed incidents of harassment, monitors record all marine mammal observations, regardless of location. The observer's location and the location of the pile being driven will be known, and the location of the animal may be estimated as a distance from the observer and then compared to the location from the pile. It may then be estimated whether the animal was exposed to sound levels constituting incidental harassment on the basis of predicted distances to relevant thresholds in post-processing of observational data, and a precise accounting of observed incidents of harassment created. This information may then be used to extrapolate observed takes to reach an approximate understanding of actual total takes, in cases where the entire zone was not monitored.

Monitoring Protocols—Monitoring will be conducted before, during, and after pile driving activities. In addition, observers will record all incidents of marine mammal occurrence, regardless of distance from activity, and monitors will document any behavioral reactions in concert with distance from piles being driven. Observations made outside the shutdown zone will not result in shutdown; that pile segment will be completed without cessation, unless the animal approaches or enters the shutdown zone, at which point all pile driving activities would be halted. Monitoring will take place from 15 minutes prior to initiation through 30 minutes post-completion of pile driving activities. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes.

Prior to the start of pile driving on any day, the Navy will contact and/or review the latest sightings data from the Orca Network and/or Center for Whale Research to determine the location of the nearest marine mammal sightings. The Orca Sightings Network consists of a list of over 600 residents, scientists, and government agency personnel in the United States and Canada, and includes passive acoustic detections. The presence of a killer whale in the vicinity of any of the six installations would likely be a notable event, drawing public attention and media scrutiny. With this level of coordination in the region of activity, the Navy should be able to effectively receive real-time information on the presence or absence of whales, sufficient to inform the day's activities. Pile driving will not occur if there is a risk of incidental harassment of a southern resident killer whale.

The following additional measures apply to visual monitoring:

(1) Monitoring will be conducted by qualified, trained protected species observers, who will be placed at the best vantage point(s) practicable (*i.e.,* from a small boat, construction barges, on shore, or any other suitable location) to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. Observers shall have no other construction-related tasks while conducting monitoring. Observers should have the following minimum qualifications:

- Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;

• Ability to conduct field observations and collect data according to assigned protocols;

• Experience or training in the field identification of marine mammals, including the identification of behaviors;

• Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

• Writing skills sufficient to document observations including, but not limited to: the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury of marine mammals from construction noise within a defined shutdown zone; and marine mammal behavior; and

• Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

Observer teams employed by the Navy in satisfaction of the mitigation and monitoring requirements described herein must meet the following additional requirements:

• Independent observers (*i.e.,* not construction personnel) are required.

• At least one observer must have prior experience working as an observer.

• Other observers may substitute education (degree in biological science or related field) or training for experience.

• Where a team of three or more observers are required, one observer should be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer.

(2) Prior to the start of pile driving activity, the shutdown zone will be monitored for 15 minutes to ensure that it is clear of marine mammals. Pile driving will only commence once observers have declared the shutdown zone clear of marine mammals; marine mammals will be allowed to remain in the shutdown zone (*i.e.,* must leave of their own volition), and their behavior will be monitored and documented. The shutdown zone may only be declared clear, and pile driving started, when the entire shutdown zone is visible (*i.e.,* when not obscured by dark, rain, fog, etc.). In addition, if such conditions should arise during impact pile driving that is already underway, the activity will halt.

(3) If a marine mammal approaches or enters the shutdown zone during the course of pile driving operations, activity will be halted and delayed until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or fifteen minutes have passed without re-detection of the animal. Monitoring will be conducted throughout the time required to drive a pile and for thirty minutes following the conclusion of pile driving.

Soft Start

The use of a soft start procedure is believed to provide additional protection to marine mammals by warning marine mammals or providing them with a chance to leave the area prior to the hammer operating at full capacity, and typically involves a requirement to initiate sound from the hammer at reduced energy followed by a waiting period. This procedure is repeated two additional times. It is difficult to specify the reduction in energy for any given hammer because of variation across drivers and, for impact hammers, the actual number of strikes at reduced energy will vary because operating the hammer at less than full power results in ''bouncing'' of the hammer as it strikes the pile, resulting in multiple ''strikes.'' The Navy will utilize soft start techniques for impact pile driving. We require an initial set of three strikes from the impact hammer at reduced energy, followed by a 30-second waiting period, then 2 subsequent 3-strike sets. Soft start will be required at the beginning of each day's impact pile driving work and at any time following a cessation of impact pile driving of thirty minutes or longer; the requirement to implement soft start for impact driving is independent of whether vibratory driving has occurred within the prior 30 minutes.

Bubble Curtain

Sound levels can be greatly reduced during impact pile driving using sound attenuation devices, including bubble curtains, which create a column of air bubbles rising around a pile from the substrate to the water surface. The air bubbles absorb and scatter sound waves emanating from the pile, thereby reducing the sound energy. Bubble curtains may be confined or unconfined. Cushion blocks are also commonly used by construction contractors in order to protect equipment and the driven pile; use of cushion blocks typically reduces emitted sound pressure levels to some extent.

The literature presents a wide array of observed attenuation results for bubble curtains (see Appendix B of the Navy's application). The variability in attenuation levels is due to variation in design, as well as differences in site conditions and difficulty in properly installing and operating in-water attenuation devices. As a general rule, reductions of greater than 10 dB cannot be reliably predicted. Prior monitoring by the Navy during a project at NBK Bangor reported a range of measured values for realized attenuation mostly within 6 to 12 dB, but with an overall average of 9 dB in effective attenuation (Illingworth and Rodkin, 2012).

The Navy will use a bubble curtain during impact driving of all steel piles greater than 14-in diameter in water depths greater than 2 ft (0.67 m), except at NBK Bremerton and Keyport. Bubble curtains will not be used during impact driving of smaller steel piles or other pile types due to the relatively low source levels, as the requirement to deploy the curtain system at each driven pile results in a significantly lower production rate. Where a bubble curtain is used, the contractor will be required to turn it on prior to the soft start in order to flush fish from the area closest to the driven pile.

Bubble curtains cannot be used at NBK Bremerton and Keyport due to the risk of disturbing contaminated sediments at these sites. Sediment contamination within Sinclair Inlet, including the project areas at NBK Bremerton, includes a variety of metals and organic chemicals originating from human sources. The marine sediments have been affected by past shipyard operations, leaching from creosote-treated piles, and other activities in Sinclair Inlet. Sediments at the project sites and adjacent to the piers at Bremerton have a pollution control plan for various metals, polycyclic aromatic hydrocarbons, polychlorinated biphenyls, and other semivolatile organic compounds (SVOC), and active cleanup is occurring pursuant to the terms of an agreement developed under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) in cooperation with the U.S. Environmental Protection Agency and the Washington Department of Ecology. The sediment at and near Keyport in Liberty Bay also has a pollution control plan, for multiple heavy metals, polychlorinated aromatic hydrocarbons, phthalates, and various other SVOCs. The Navy will assess the use of bubble curtains at NBK Keyport on a project-by-project basis.

To avoid loss of attenuation from design and implementation errors, the Navy will require specific bubble curtain design specifications, including testing requirements for air pressure and flow at each manifold ring prior to initial impact hammer use, and a requirement for placement on the

substrate. The bubble curtain must distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column. The lowest bubble ring shall be in contact with the mudline for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent mudline contact. No parts of the ring or other objects shall prevent full mudline contact. The contractor shall also train personnel in the proper balancing of air flow to the bubblers, and must submit an inspection/performance report to the Navy for approval within 72 hours following the performance test. Corrections to the noise attenuation device to meet the performance standards shall occur prior to use for impact driving.

We have carefully evaluated the Navy's planned mitigation measures and considered a range of other measures in the context of ensuring that we prescribe the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Based on our evaluation of these measures, we have determined that the planned mitigation measures provide the means of effecting the least practicable adverse impact on marine mammal 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 stock for subsistence uses.

Monitoring and Reporting

In order to issue an LOA for an activity, Section 101(a)(5)(A) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of the authorized taking. NMFS's MMPA implementing regulations further describe the information that an applicant should provide when requesting an authorization (50 CFR 216.104(a)(13)), including the means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and the level of taking or impacts on populations of marine mammals.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of significant interactions with marine mammal species in action area (*e.g.,* animals that came close to the vessel, contacted the gear, or are otherwise rare or displaying unusual behavior).
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas).
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors.
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks.
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or important physical components of marine mammal habitat).
- Mitigation and monitoring effectiveness.

Coordination and Plan Development

An installation-specific marine mammal monitoring plan for each year's anticipated work will be developed by the Navy and presented each year for approval by NMFS prior to the start of construction. Final monitoring plans will be prepared and submitted to NMFS within 30 days following receipt of comments on the draft plans from NMFS. Please see Appendix D of the Navy's application for a marine mammal monitoring plan template. During each in-water work period covered by an LOA, the Navy will periodically update NMFS on the progress of ongoing projects, as needed.

Visual Marine Mammal Observations

The Navy will collect sighting data and behavioral responses to pile driving activity for marine mammal species observed in the region of activity during the period of activity. The number and location of required observers will be determined specific to each installation on an annual basis, depending on the nature of work anticipated (including the size of zones to be monitored). All observers will be trained in marine mammal identification and behaviors and are required to have no other construction-related tasks while conducting monitoring. The Navy will monitor all shutdown zones at all times, and will monitor disturbance zones to the extent practicable (some zones are too large to fully observe (Table 7)). The Navy will conduct monitoring before, during, and after pile driving, with observers located at the best practicable vantage points.

As noted above, the Navy plans to monitor the full shutdown zone with appropriate marine mammal monitors. By developing monitoring plans based on specific project details, an adequate number of observers will be assigned to provide full coverage of the shutdown zones. Survey boats will be utilized for all projects that have monitoring zones extending beyond the visual survey range of shoreline monitors.

As described in ''Mitigation'' and based on our requirements, the Navy will implement the following procedures for pile driving:

- Marine mammal observers will be located at the best vantage point(s) in order to properly see the entire shutdown zone and as much of the disturbance zone as possible.
- During all observation periods, observers will use binoculars and the naked eye to search continuously for marine mammals.
- If the shutdown zones are obscured by fog or poor lighting conditions, pile driving at that location will not be initiated until that zone is visible. Should such conditions arise while impact driving is underway, the activity will halt.
- The shutdown zone around the pile will be monitored for the presence of marine mammals before, during, and after all pile driving activity, while disturbance zone monitoring will be implemented according to the schedule described here.

Individuals implementing the monitoring protocol will assess its effectiveness using an adaptive approach. Monitoring biologists will use their best professional judgment throughout implementation and seek improvements to these methods when deemed appropriate. Any modifications to the protocol will be coordinated between NMFS and the Navy.

Data Collection

We require that observers use standardized data forms. Among other pieces of information, the Navy will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and a description of specific actions that ensued and resulting behavior of the animal, if any. We require that, at a minimum, the following information be collected on the sighting forms:

- Date and time that monitored activity begins or ends;
- Construction activities occurring during each observation period;

- Weather parameters (*e.g.,* wind speed, percent cloud cover, visibility);
- Water conditions (*e.g.,* sea state, tide state);
- Species, numbers, and, if possible, sex and age class of marine mammals;
- Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity;
- Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;
- Description of implementation of mitigation measures (*e.g.,* shutdown or delay).
- Locations of all marine mammal observations; and
- Other human activity in the area.

The Navy will note in behavioral observations, to the extent practicable, if an animal has remained in the area during construction activities. Therefore, it may be possible to identify if the same animal or different individuals are being exposed.

Acoustic Monitoring

The Navy will conduct hydroacoustic monitoring for a subset of impact-driven steel piles for projects including more than three piles where a bubble curtain is used. The USFWS has imposed requirements relating to impact driving of steel piles, including restrictions on unattenuated driving of such piles, as a result of concern regarding impacts to the ESA-listed marbled murrelet. If USFWS allows the Navy to conduct minimal driving of steel piles without the use of the bubble curtain, baseline sound measurements of steel pile driving will occur prior to the implementation of noise attenuation to evaluate the performance of the device. Impact pile driving without noise attenuation will be limited to the number of piles necessary to obtain an adequate sample size for each project.

Marine Mammal Surveys

Subject to funding availability, the Navy will continue pinniped haul-out survey counts at specific installations. Biologists conduct counts of seals and sea lions at NBK Bremerton, Bangor, Manchester, and NS Everett. Counts are conducted several times per month, depending on the installation. All animals are identified to species where possible. This information aids in determination of seasonal use of each site and trends in the number of animals.

Reporting

The Navy will submit a draft annual report to NMFS within 90 days of the completion of each year's monitoring effort. The report will include marine mammal observations pre-activity, during-activity, and post-activity during pile driving days, and will also provide descriptions of any behavioral responses to construction activities by marine mammals and a complete description of all mitigation shutdowns and the results of those actions and an extrapolated total take estimate based on the number of marine mammals observed during the course of construction. A final report must be submitted within 30 days following resolution of comments on the draft report. The Navy will also submit a comprehensive summary report covering all activities conducted under the incidental take regulations.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' by mortality, serious injury, and Level A or Level B harassment, we consider other factors, such as the likely nature of any behavioral responses (*e.g.,* intensity, duration), the context of any such responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality).

Pile driving activities associated with the maintenance projects have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (behavioral disturbance) only (for all species other than the harbor seal) from underwater sounds generated from pile driving. Potential takes could occur if individual marine mammals are present in the ensonified zone when pile driving is happening.

No serious injury or mortality would be expected even in the absence of the planned mitigation measures. For all species other than the harbor seal, no Level A harassment is anticipated given the nature of the activities, *i.e.,* much of the anticipated activity would involve vibratory driving and/or installation of small-diameter, non-steel piles, and measures designed to minimize the possibility of injury. The potential for injury is small for cetaceans and sea lions, and is expected to be essentially eliminated through implementation of the planned mitigation measures—use of the bubble curtain for larger steel piles at most installations, soft start (for impact driving), and shutdown zones. Impact driving, as compared with vibratory driving, has source characteristics (short, sharp pulses with higher peak levels and much sharper rise time to reach those peaks) that are potentially injurious or more likely to produce severe behavioral reactions. Given sufficient notice through use of soft start, marine mammals are expected to move away from a sound source that is annoying prior to its becoming potentially injurious or resulting in more severe behavioral reactions. Environmental conditions in inland waters are expected to generally be good, with calm sea states, and we expect conditions would allow a high marine mammal detection capability, enabling a high rate of success in implementation of shutdowns to avoid injury.

As described previously, there are multiple species that should be considered rare in the project areas and for which we would authorize only nominal and precautionary take of a single group for a minimal period of time (two days). Therefore, we do not expect meaningful impacts to these species (*i.e.,* humpback whale, gray whale, minke whale, transient and resident killer whales, and northern elephant seal) and find that the total marine mammal take from each of the specified activities will have a negligible impact on these marine mammal species.

For remaining species, we discuss the likely effects of the specified activities in greater detail. Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to

reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff, 2006; HDR, Inc., 2012; Lerma, 2014). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. The pile driving activities analyzed here are similar to, or less impactful than, numerous other construction activities conducted in San Diego Bay, San Francisco Bay, and in the Puget Sound region, which have taken place with no known long-term adverse consequences from Level B harassment.

The Navy has conducted multi-year activities potentially affecting marine mammals, and typically involving greater levels of activity than is contemplated here in various locations such as San Diego Bay and some of the installations considered herein (NBK Bangor and NBK Bremerton). Reporting from these activities has similarly shown no apparently consequential behavioral reactions or long-term effects on marine mammal populations (Lerma, 2014; Navy, 2016). Repeated exposures of individuals to relatively low levels of sound outside of preferred habitat areas are unlikely to significantly disrupt critical behaviors. Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in viability for the affected individuals, and thus would not result in any adverse impact to the stock as a whole. Level B harassment will be reduced to the level of least practicable adverse impact through use of mitigation measures described herein and, if sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activity is occurring. While vibratory driving associated with some project components may produce sound at distances of many kilometers from the pile driving site, thus intruding on higher-quality habitat, the project sites themselves and the majority of sound fields produced by the specified activities are within industrialized areas. Therefore, we expect that animals annoyed by project sound would simply avoid the area and use more-preferred habitats.

In addition to the expected effects resulting from authorized Level B harassment, we anticipate that harbor seals may sustain some limited Level A harassment in the form of auditory injury at two locations (NBK Bangor and NS Everett), assuming they remain within a given distance of the pile driving activity for the full number of pile strikes. However, seals in these locations that experience PTS would likely only receive slight PTS, *i.e.,* minor degradation of hearing capabilities within regions of hearing that align most completely with the energy produced by pile driving (the low-frequency region below 2 kHz), not severe hearing impairment or impairment in the regions of greatest hearing sensitivity. If hearing impairment occurs, it is most likely that the affected animal would lose a few decibels in its hearing sensitivity, which in most cases is not likely to meaningfully affect its ability to forage and communicate with conspecifics. As described above, we expect that marine mammals would be likely to move away from a sound source that represents an aversive stimulus, especially at levels that would be expected to result in PTS, given sufficient notice through use of soft start.

In summary, this negligible impact analysis is founded on the following factors: (1) The possibility of serious injury or mortality may reasonably be considered discountable; (2) as a result of the nature of the activity in concert with the planned mitigation requirements, injury is not anticipated for any species other than the harbor seal; (3) the anticipated incidents of Level B harassment consist of, at worst, temporary modifications in behavior; (4) the additional impact of PTS of a slight degree to few individual harbor seals at two locations is not anticipated to increase individual impacts to a point where any population-level impacts might be expected; (5) the absence of any significant habitat within the industrialized project areas, including known areas or features of special significance for foraging or reproduction; and (6) the presumed efficacy of the planned mitigation measures in reducing the effects of the specified activity to the level of least practicable adverse impact.

In addition, although affected humpback whales may be from DPSs that are listed under the ESA, and southern resident killer whales are depleted under the MMPA as well as listed as endangered under the ESA, it is unlikely that minor noise effects in a small, localized area of sub-optimal habitat would have any effect on the stocks' ability to recover. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activities will have only minor, short-term effects on individuals. The specified activities are not expected to impact rates of recruitment or survival and will therefore not result in population-level impacts.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the planned monitoring and mitigation measures, we find that the total marine mammal take from the Navy's maintenance construction activities will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Section 101(a)(5)(A) of the MMPA for specified activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

Please see Table 9 for information relating to this small numbers analysis. We would authorize incidental take of 12 marine mammal stocks. The total amount of taking that could be authorized under these regulations is less than one percent for five of these, less than five percent for an additional two stocks, and less than ten percent for another stock, all of which we consider relatively small percentages and we find are small numbers of marine mammals relative to the estimated overall population abundances for those stocks.

For the southern resident killer whale (in addition to the humpback whale, gray whale, minke whale, transient killer whale, and northern elephant seal), we would authorize take resulting from a brief exposure of one group of the stock. We believe that a single incident of take of one group of any of these species represents take of small numbers for that species.

For the two affected stocks of harbor seal (Hood Canal and Northern Inland Waters), no recent abundance estimate is available. The most recent abundance estimates for harbor seals in Washington inland waters are from 1999, and it is generally believed that harbor seal populations have increased significantly during the intervening years (*e.g.,* Mapes, 2013). However, we anticipate

that takes estimated to occur for harbor seals are likely to occur only within some portion of the relevant populations, rather than to animals from the stock as a whole. For example, takes anticipated to occur at NBK Bangor or at NS Everett would be expected to accrue to the same individual seals that routinely occur on haul-outs at these locations, rather than occurring to new seals on each construction day. Similarly, at Zelatched Point in Hood Canal many known haul-outs are at locations elsewhere in Hood Canal and, although a density estimate rather than haul-out count is used to inform the exposure estimate for Zelatched Point, we expect that exposed individuals would comprise some limited portion of the overall stock abundance. In summary, harbor seals taken as a result of the specified activities at each of the six installations are expected to comprise only a limited portion of individuals comprising the overall relevant stock abundance. Therefore, we find that small numbers of marine mammals will be taken relative to the population size of both the Hood Canal and Northern Inland Waters stocks of harbor seal.

The estimated taking for harbor porpoise comprises greater than one-third of the best available stock abundance. However, due to the nature of the specified activity—construction activities occurring at six specific locations, rather than a mobile activity occurring throughout the stock range—the available information shows that only a portion of the stock would likely be impacted. Recent aerial surveys that inform the current abundance estimate for harbor porpoise involved effort broken down by region and subregion. According to the data available as a result of these surveys, the vast majority of harbor porpoise abundance occurs in the ''northern waters'' region, including the San Juan Islands and Strait of Juan de Fuca, where no Navy construction activity is planned to occur. The six installations considered here occur within the Hood Canal, North Puget Sound, and South Puget Sound regions, which contain approximately 24 percent of stock-wide harbor porpoise abundance (Jefferson *et al.,* 2016). Therefore, we assume that affected individuals would most likely be from the 24 percent of the stock expected to occur in these regions. This figure itself may be an overestimate, as Navy facilities are located within only three of seven subregions within the North and South Puget Sound regions (*i.e.,* East Whidbey, Bainbridge, and Vashon). However, at this finer scale, it is possible that harbor porpoise individuals transit across subregions. In consideration of this conservative scenario, *i.e.,* that 24 percent of the stock abundance is taken, we find that small numbers of marine mammals will be taken relative to the population size of the Washington inland waters stock of harbor porpoise.

Based on the analysis contained herein of the activity (including the planned mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population sizes of the affected species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by these actions. Therefore, we have determined that the total taking of affected species or stocks will not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Adaptive Management

The regulations governing the take of marine mammals incidental to Navy maintenance construction activities contain an adaptive management component.

The reporting requirements associated with this rule are designed to provide NMFS with monitoring data from the previous year to allow consideration of whether any changes are appropriate. The use of adaptive management allows NMFS to consider new information from different sources to determine (with input from the Navy regarding practicability) on an annual or biennial basis if mitigation or monitoring measures should be modified (including additions or deletions). Mitigation measures could be modified if new data suggests that such modifications would have a reasonable likelihood of reducing adverse effects to marine mammals and if the measures are practicable.

The following are some of the possible sources of applicable data to be considered through the adaptive management process: (1) Results from monitoring reports, as required by MMPA authorizations; (2) results from general marine mammal and sound research; and (3) any information which reveals that marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent LOAs.

Endangered Species Act (ESA)

The southern resident killer whale, as well as multiple DPSs of humpback whale, are listed under the ESA (see Table 3). The authorization of incidental take pursuant to the Navy's specified activity would not affect any designated critical habitat. OPR initiated consultation with NMFS's West Coast Regional Office (WCRO) under section 7 of the ESA on the promulgation of five-year regulations and the subsequent issuance of LOAs to the Navy under section 101(a)(5)(A) of the MMPA. On April 5, 2019, WCRO issued a final Biological Opinion concluding that OPR's action will not jeopardize the continued existence of any ESA-listed species.

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 evaluate our proposed action (*i.e.,* the promulgation of regulations and subsequent issuance of incidental take authorization) and alternatives with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 of the Companion Manual for NAO 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 action qualifies to be categorically excluded from further NEPA review.

Classification

Pursuant to the procedures established to implement Executive Order 12866, the Office of Management and Budget has determined that this rule is not significant.

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage that this action will not have a significant economic impact on a substantial number of small entities. Navy is the sole entity that would be subject to the requirements of these regulations, and the U.S. Navy is not a small governmental jurisdiction, small organization, or small business, as defined by the RFA. No comments were received regarding this certification. As a result, a regulatory flexibility analysis is not required and none has been prepared.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number. However, this rule does not contain a collection-of-information requirement subject to the provisions of the PRA because the applicant is a Federal agency.

List of Subjects in 50 CFR Part 218

Exports, Fish, Imports, Indians, Labeling, Marine mammals, Penalties, Reporting and recordkeeping requirements, Seafood, Transportation.

Dated: April 10, 2019.

Samuel D. Rauch III,

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

For reasons set forth in the preamble, 50 CFR part 218 is amended as follows:

PART 218—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 1. The authority citation for part 218 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.,* unless otherwise noted.

■ 2. Add subpart C to read as follows:

Subpart C—Taking Marine Mammals Incidental to U.S. Navy Marine Structure Maintenance and Pile Replacement in Washington

Sec.

218.20 Specified activity and specified geographical region.
218.21 Effective dates.
218.22 Permissible methods of taking.
218.23 Prohibitions.
218.24 Mitigation requirements.
218.25 Requirements for monitoring and reporting.
218.26 Letters of Authorization.
218.27 Renewals and modifications of Letters of Authorization.
218.28–218.29 [Reserved]

Subpart C—Taking Marine Mammals Incidental to U.S. Navy Marine Structure Maintenance and Pile Replacement in Washington

§ 218.20 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the U.S. Navy (Navy) and those persons it authorizes or funds to conduct activities on its behalf for the taking of marine mammals that occurs in the areas outlined in paragraph (b) of this section and that occurs incidental to maintenance construction activities, as defined in a Letter of Authorization (LOA).

(b) The taking of marine mammals by the Navy may be authorized in a LOA only if it occurs within Washington inland waters in the vicinity of one of the following six naval installations: Naval Base Kitsap Bangor, Zelatched Point, Naval Base Kitsap Bremerton, Naval Base Kitsap Keyport, Naval Base Kitsap Manchester, and Naval Station Everett.

§ 218.21 Effective dates.

Regulations in this subpart are effective from May 17, 2019 through May 17, 2024.

§ 218.22 Permissible methods of taking.

Under LOAs issued pursuant to §§ 216.106 of this chapter and 218.26, the Holder of the LOA (hereinafter ''Navy'') may incidentally, but not intentionally, take marine mammals within the area described in § 218.20(b) by Level A or Level B harassment associated with maintenance construction activities, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

§ 218.23 Prohibitions.

Notwithstanding takings contemplated in § 218.22 and authorized by a LOA issued under §§ 216.106 of this chapter and 218.26, no person in connection with the activities described in § 218.20 may:

(a) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under §§ 216.106 of this chapter and 218.26;

(b) Take any marine mammal not specified in such LOAs;

(c) Take any marine mammal specified in such LOAs in any manner other than as specified;

(d) Take a marine mammal specified in such LOAs if NMFS determines such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(e) Take a marine mammal specified in such LOAs if NMFS determines such taking results in an unmitigable adverse impact on the species or stock of such marine mammal for taking for subsistence uses.

§ 218.24 Mitigation requirements.

When conducting the activities identified in § 218.20(a), the mitigation measures contained in any LOA issued under §§ 216.106 of this chapter and 218.26 must be implemented. These mitigation measures shall include but are not limited to:

(a) *General conditions.* (1) A copy of any issued LOA must be in the possession of the Navy, its designees, and work crew personnel operating under the authority of the issued LOA; and

(2) The Navy shall conduct briefings for construction supervisors and crews, the monitoring team, and Navy staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, the marine mammal monitoring protocol, and operational procedures.

(b) *Shutdown zones.* (1) For all pile driving activity, the Navy shall implement a minimum shutdown zone of a 10 m radius around the pile. If a marine mammal comes within or approaches the shutdown zone, such operations shall cease;

(2) For all pile driving activity, the Navy shall implement shutdown zones with radial distances as identified in any LOA issued under §§ 216.106 of this chapter and 218.26. If a marine mammal comes within or approaches the shutdown zone, such operations shall cease;

(3) For all pile driving activity, the Navy shall designate monitoring zones with radial distances as identified in any LOA issued under §§ 216.106 of this chapter and 218.26. Anticipated observable zones within the designated monitoring zones shall be identified in annual Marine Mammal Monitoring Plans, subject to approval by NMFS. If any cetacean is observed outside the shutdown zone identified pursuant to paragraphs (b)(1) and (2) of this section, but within the designated monitoring zone, such operations shall cease.

(c) *Shutdown protocols.* (1) The Navy shall deploy marine mammal observers as indicated in annual Marine Mammal Monitoring Plans, which shall be subject to approval by NMFS, and as described in § 218.25.

(2) For all pile driving activities, a minimum of one observer shall be stationed at the active pile driving rig or in reasonable proximity in order to monitor the shutdown zone.

(3) Prior to the start of pile driving on any day, the Navy shall take measures to ensure that southern resident killer whales are not located within the vicinity of the project area, including, but not limited to, contacting and/or reviewing the latest sightings data from the Orca Network and/or Center for Whale Research, including passive acoustic detections, to determine the location of the nearest marine mammal sightings.

(4) Monitoring shall take place from fifteen minutes prior to initiation of pile driving activity through thirty minutes post-completion of pile driving activity. Pre-activity monitoring shall be conducted for fifteen minutes to ensure that the shutdown zone is clear of marine mammals, and pile driving may commence only if observers have declared the shutdown zone clear of marine mammals during this period. In the event of a delay or shutdown of activity resulting from marine mammals in the shutdown zone, the marine mammals shall be allowed to remain in the shutdown zone (*i.e.,* must leave of their own volition) and their behavior shall be monitored and documented. Monitoring shall occur throughout the time required to drive a pile. A determination that the shutdown zone is clear cannot be made unless the observer(s) have good visibility of the shutdown zone during the entire fifteen-minute observation period (*i.e.,* the entire shutdown zone must be visible to the naked eye and unobscured by dark, rain, fog, poor lighting conditions, etc.).

(5) If a marine mammal approaches or enters the shutdown zone, the Navy shall halt all pile driving activities at that location. If pile driving is halted or delayed due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or fifteen minutes have passed without re-detection of the animal.

(6) If a species for which authorization has not been granted, or a species for which authorization has been granted but the authorized takes are met, is observed approaching or within the monitoring zone, the Navy must halt pile driving activities immediately using delay and shutdown procedures. Activities must not resume until the animal has been confirmed to have left the area or the fifteen-minute observation period has elapsed.

(7) Monitoring shall be conducted by trained observers, who shall have no other assigned tasks during monitoring periods. Trained observers shall be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator. The Navy shall adhere to the following additional observer qualifications:

(i) Independent observers (*i.e.,* not construction personnel) are required.

(ii) At least one observer must have prior experience working as an observer.

(iii) Other observers may substitute education (degree in biological science or related field) or training for experience.

(iv) Where a team of three or more observers are required, one observer shall be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer.

(d) *Soft start.* The Navy shall use soft start techniques for impact pile driving. Soft start for impact drivers requires contractors to provide an initial set of three strikes at reduced energy, followed by a thirty-second waiting period, then two subsequent reduced energy three-strike sets. Soft start shall be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of thirty minutes or longer.

(e) *Sound attenuation.* The Navy shall employ a bubble curtain (or other sound attenuation device with proven typical performance of at least 8 decibels effective attenuation) during impact pile driving of steel piles greater than 14 inches diameter in water depths greater than 2 feet, except at Naval Base Kitsap Bremerton and Naval Base Kitsap Keyport. The Navy shall assess the potential for the use of bubble curtains at Keyport on a project-by-project basis. In addition, the Navy shall implement the following performance standards:

(1) The bubble curtain must distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column.

(2) The lowest bubble ring shall be in contact with the mudline for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent mudline contact. No parts of the ring or other objects shall prevent full mudline contact.

(3) The Navy shall require that construction contractors train personnel in the proper balancing of air flow to the bubblers, and shall require that construction contractors submit an inspection/performance report for approval by the Navy within 72 hours following the performance test. Corrections to the attenuation device to meet the performance standards shall occur prior to impact driving.

§ 218.25 Requirements for monitoring and reporting.

(a) Not later than March 1 of each year, the Navy shall develop and submit for NMFS's approval an installation-specific Marine Mammal Monitoring Plan for each year's anticipated work. Final monitoring plans shall be prepared and submitted to NMFS within 30 days following receipt of comments on the draft plans from NMFS.

(b) During each in-water work period, the Navy shall update NMFS every two months on the progress of ongoing projects.

(c) Trained observers shall receive a general environmental awareness briefing conducted by Navy staff. At a minimum, training shall include identification of the marine mammals that may occur in the project vicinity and relevant mitigation and monitoring requirements. All observers shall have no other construction-related tasks while conducting monitoring.

(d) For shutdown zone monitoring, the Navy shall report on implementation of shutdown or delay procedures, including whether the procedures were not implemented and why (when relevant).

(e) The Navy shall deploy additional observers to monitor disturbance zones according to the minimum requirements defined in annual Marine Mammal Monitoring Plans, subject to approval by NMFS. These observers shall collect sighting data and behavioral responses to pile driving for marine mammal species observed in the region of activity during the period of activity, and shall communicate with the shutdown zone observer as appropriate with regard to the presence of marine mammals. All observers shall be trained in identification and reporting of marine mammal behaviors.

(f) The Navy must conduct hydroacoustic monitoring for a subset of impact-driven steel piles for projects that include more than three such piles. When this requirement for monitoring of impact-driven steel piles is triggered, the Navy must also conduct hydroacoustic monitoring of a subset of impact-driven plastic piles (if applicable).

(g) The Navy must submit annual summary, final, and comprehensive summary reports as described in this paragraph (g):

(1) Navy shall submit an annual summary report to NMFS not later than 90 days following the end of construction for that year. Navy shall provide a final report within 30 days following resolution of comments on the draft report. These reports shall contain, at minimum, the following:

(i) Date and time that monitored activity begins or ends;

(ii) Construction activities occurring during each observation period;

(iii) Weather parameters (*e.g.,* wind speed, percent cloud cover, visibility);

(iv) Water conditions (*e.g.,* sea state, tide state);

(v) Species, numbers, and, if possible, sex and age class of marine mammals;

(vi) Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity;

(vii) Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;

(viii) Description of implementation of mitigation measures (*e.g.,* shutdown or delay);

(ix) Locations of all marine mammal observations; and

(x) Other human activity in the area.

(2) Navy shall submit a comprehensive summary report to NMFS not later than ninety days following the conclusion of marine mammal monitoring efforts described in this subpart.

(h) The Navy must submit reports of stranded, injured, or dead marine mammals as described in this paragraph (h):

(1) In the event that a live marine mammal is found stranded, whether on shore or in or on any structure or vessel, the following steps shall be taken:

(i) Project personnel who discover the marine mammal shall immediately notify the most appropriate onsite personnel with relevant expertise (*e.g.,* marine mammal observers) as well as the Navy (if non-Navy project personnel initially discover the animal).

(ii) The Navy shall then immediately notify the West Coast Regional Stranding Coordinator, NMFS, and, in consultation with the Stranding Coordinator, shall immediately notify the most appropriate qualified individual (*i.e.,* biologist or veterinarian) to respond to the event.

(iii) In the interim, or in the event that no qualified individual other than onsite marine mammal observers is available to respond to the event, the Navy shall manage the event response and shall take action to prevent any further deterioration of the animal's condition, to the extent possible. Appropriate action may be specific to the event. At minimum, the Navy should provide shade for the animal (if possible), shall not move the animal or cause the animal to move, and shall suspend project activity until the situation is resolved.

(iv) The Navy shall report the incident to the Office of Protected Resources (OPR), NMFS, within 48 hours after discovery.

(2) In the unanticipated event that the activity defined in § 218.20 clearly causes the take of at least one marine mammal in a prohibited manner, the Navy shall immediately cease such activity and report the incident to OPR and the West Coast Regional Stranding Coordinator, NMFS. Activities shall 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. The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) Description of the incident;

(iii) Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, visibility);

(iv) Description of all marine mammal observations in the 24 hours preceding the incident;

(v) Species identification or description of the animal(s) involved;

(vi) Fate of the animal(s); and

(vii) Photographs or video footage of the animal(s). Photographs may be taken once the animal(s) have been moved from the waterfront area.

(3) In the event that the Navy discovers an injured or dead marine mammal and 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 shall immediately report the incident to OPR and the West Coast Regional Stranding Coordinator, NMFS. The report must include the information identified in paragraph (h)(2) of this section. 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.

(4) In the event that the Navy discovers an injured or dead marine mammal and determines that the injury or death is not associated with or related to the activities defined in § 218.20 (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, scavenger damage), Navy shall report the incident to OPR and the West Coast Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. The Navy shall provide photographs or video footage or other documentation of the stranded animal sighting to NMFS. Photographs may be taken once the animal has been moved from the waterfront area.

§ 218.26 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to the regulations in this subpart, the Navy must apply for and obtain an LOA.

(b) An LOA, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of the regulations in this subpart.

(c) If an LOA expires prior to the expiration date of the regulations in this subpart, the Navy may apply for and obtain a renewal of the LOA.

(d) In the event of projected changes to the activity or to mitigation and monitoring measures required by an LOA, the Navy must apply for and obtain a modification of the LOA as described in § 218.27.

(e) The LOA shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.,* mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under the regulations in this subpart.

(g) Notice of issuance or denial of an LOA shall be published in the **Federal Register** within thirty days of a determination.

§ 218.27 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under §§ 216.106 of this chapter and 218.26 for the activity identified in § 218.20(a) shall be renewed or modified upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for the regulations in this subpart (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section); and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under the regulations in this subpart were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section) that do not change the findings made for the regulations in

this subpart or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under §§ 216.106 of this chapter and 218.26 for the activity identified in § 218.20(a) may be modified by NMFS under the following circumstances:

(1) *Adaptive management.* NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with the Navy regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the regulations in this subpart.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA:

(A) Results from the Navy's monitoring from the previous year(s).

(B) Results from other marine mammal and/or sound research or studies.

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by the regulations in this subpart or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the **Federal Register** and solicit public comment.

(2) *Emergencies.* If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in LOAs issued pursuant to §§ 216.106 of this chapter and 218.26, an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the **Federal Register** within thirty days of the action.

§§ 218.28–218.29 [Reserved]

[FR Doc. 2019–07513 Filed 4–16–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 141107936–5399–02]

RIN 0648–XG960

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2019 Commercial Accountability Measure and Closure for South Atlantic Gray Triggerfish; January Through June Season

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures for commercial gray triggerfish in the exclusive economic zone (EEZ) of the South Atlantic. NMFS projects commercial landings for gray triggerfish will reach the commercial annual catch limit (ACL)(commercial quota) for the January through June season by April 17, 2019. Therefore, NMFS is closing the commercial sector for gray triggerfish in the South Atlantic EEZ on April 17, 2019. This closure is necessary to protect the gray triggerfish resource.

DATES: This rule is effective 12:01 a.m., local time, April 17, 2019, until July 1, 2019.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes gray triggerfish and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The commercial ACL (commercial quota) for gray triggerfish in the South Atlantic is divided into two 6-month fishing seasons. The total commercial ACL of 312,324 lb (141,668 kg), round weight, is allocated 50 percent to each commercial fishing season, or 156,162 lb (70,834 kg), round weight, each for January through June, and July through December, as specified in 50 CFR 622.190(a)(8)(i) and (ii).

Under 50 CFR 622.193(q)(1)(i), NMFS is required to close the commercial sector for gray triggerfish when either commercial quota specified in 50 CFR 622.190(a)(8)(i) or (ii) is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the commercial quota for South Atlantic gray triggerfish for the January through June fishing season will be reached by April 17, 2019. Accordingly, the commercial sector for South Atlantic gray triggerfish is closed effective at 12:01 a.m., local time, April 17, 2019, until the start of the July through December fishing season on July 1, 2019. Additionally, NMFS notes that as specified at 50 CFR 622.190(a)(8)(iii), if there is any unused portion of the January through June seasonal quota, it will be added to the July through December seasonal quota. Any unused portion of the July through December seasonal quota, including, if applicable, any addition of quota from the January through June season, will become void and will not be added to any subsequent quota in the following fishing year.

The operator of a vessel with a valid Federal commercial vessel permit for South Atlantic snapper-grouper having gray triggerfish on board must have landed and bartered, traded, or sold such gray triggerfish prior to 12:01 a.m., local time, April 17, 2019. During the closure, the recreational bag limit specified in 50 CFR 622.187(b)(8), and the possession limits specified in 50 CFR 622.187(c), apply to all harvest or possession of gray triggerfish in or from the South Atlantic EEZ. Also, during the closure, the sale or purchase of gray triggerfish taken from the South Atlantic EEZ is prohibited. The prohibition on the sale or purchase does not apply to gray triggerfish that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, April 17, 2019, and were held in cold storage by a dealer or processor.

For a person on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery has been issued, the bag and possession limits and sale and purchase provisions of the commercial closure for gray triggerfish apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.190(c)(1)(ii).

Classification

The Regional Administrator, NMFS Southeast Region, has determined this temporary rule is necessary for the conservation and management of gray

triggerfish and the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(q)(1)(i) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA), finds that the need to immediately implement this action to close the commercial sector for gray triggerfish constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the final rules implementing the split commercial season for gray triggerfish and the commercial closure provisions have already been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect gray triggerfish since the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established seasonal commercial quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: April 12, 2019.

Jennifer M. Wallace,

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

[FR Doc. 2019–07693 Filed 4–12–19; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 180713633–9174–02]

RIN 0648–XG974

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; modification of closure.

SUMMARY: NMFS is opening directed fishing for northern rockfish in the Bering Sea and Aleutian Islands Management Area (BSAI). This action is necessary to fully use the 2019 total allowable catch (TAC) of northern rockfish in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 12, 2019, through 2400 hrs, A.l.t., December 31, 2019. Comments must be received at the following address no later than 4:30 p.m., A.l.t., April 29, 2019.

ADDRESSES: You may submit comments, identified by *NOAA-NMFS-2018-0089,* by either of the following methods:

- *Federal e-Rulemaking Portal.* Go to: *https://www.regulations.gov/docket?D=NOAA-NMFS-2018-0089,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

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

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

Pursuant to the final 2019 and 2020 harvest specifications for groundfish in the BSAI (84 FR 9000, March 13, 2019), NMFS closed directed fishing for northern rockfish under§ 679.20(d)(1)(iii).

As of April 9, 2019, NMFS has determined that approximately 5,400 metric tons of northern rockfish initial TAC remains unharvested in the BSAI. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the 2019 TAC of northern rockfish in the BSAI, NMFS is terminating the previous closure and is opening directed fishing for northern rockfish in the BSAI. This will enhance the socioeconomic well-being of harvesters in this area. The Administrator, Alaska Region (Regional Administrator) considered the following factors in reaching this decision: (1) The current catch of northern rockfish in the BSAI and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) and § 679.25(c)(1)(ii) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of northern rockfish in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of April 9, 2019.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon

the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the fishery for northern rockfish in the BSAI to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until April 29, 2019.

This action is required by § 679.20 and § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: April 12, 2019.

Jennifer M. Wallace,

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

[FR Doc. 2019–07694 Filed 4–12–19; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 84, No. 74
Wednesday, April 17, 2019

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket Number FSIS–2018–0012]

RIN 0583–AD71

Rescission of Dual Labeling Requirements for Certain Packages of Meat and Poultry

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend its labeling regulations to remove provisions that require packages of meat or poultry products that contain at least one pound or one pint, but less than four pounds or one gallon, to express the net weight or net contents in two different units of measurement on the product label. FSIS is taking this action in response to a petition submitted on behalf of a small meat processing establishment. After reviewing these provisions, FSIS has determined that it is not necessary for labels of any meat or poultry products to bear dual statements of weight or content, using more than one unit of measurement, to convey the accurate weight or amount of the product to consumers.

DATES: Comments must be received on or before June 17, 2019.

ADDRESSES: FSIS invites interested persons to submit comments on the proposed rule. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field on this web page or 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–2018–0012. 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: Rosalyn Murphy-Jenkins, Director, Labeling and Program Delivery Division, Office of Policy and Program Development; Telephone: (301) 504–0878, Fax: (202) 245–4795

SUPPLEMENTARY INFORMATION:

Background

FSIS is the public health regulatory agency in the USDA that is responsible for ensuring that the nation's commercial supply of meat, poultry, and egg products is safe, wholesome, and accurately labeled and packaged. FSIS develops and implements regulations and policies to ensure that meat, poultry, and egg product labeling is not false or misleading.

Regulatory Reform

On February 24, 2017, President Trump signed Executive Order (E.O.) 13777, ''Enforcing the Regulatory Reform Agenda.'' Section 3(a) of the E.O. directs Federal agencies to establish a Regulatory Reform Task Force (Task Force). One of the duties of the USDA Task Force is to evaluate existing regulations and make recommendations to the Secretary of Agriculture for their repeal, replacement, or modification.

To help the Task Force conduct their evaluation, the USDA published a proposed rule in the **Federal Register** (82 FR 32649, July 17, 2017) requesting ideas from the public on how the Department can provide better customer service and remove unintended barriers to participation in USDA programs. In response to the proposed rule, FSIS received a petition submitted on behalf of a small meat processing establishment requesting that FSIS rescind regulations (9 CFR 317.2(h)(5) and 381.121(c)(5)) that require packages of meat and poultry products that contain at least one pound or pint, but less than four pounds or one gallon, to express the net weight or net contents as a ''dual declaration'' on the product label.

Specifically, under the regulations at 9 CFR 317.2(h)(5) and 381.121(c)(5), dual declaration is required to express the net weight in ounces and immediately thereafter in parentheses in pounds, with any remainder in terms of ounces or common or decimal fraction of the pound (*e.g.,* ''Net Wt. 24 oz. (1 lb. 8 oz.), ''Net Wt. 24 oz. (1.5 lbs.)'' or ''Net Wt. 24 oz. (1 ½ lb.)''). For liquid measure, dual declaration is required to be expressed as the net content in fluid ounces and immediately thereafter in parentheses the largest whole U.S. customary unit (*e.g.,* pints or, quarts, with any remainder expressed in terms of fluid ounces or common or decimal fraction of the pint or quart (*e.g.,* ''Net contents 32 fl oz. (1 QT)'' or ''Net contents 30 fl oz. (1 pint 14 fl oz.)''). Packages of products that contain less than one pound or pint or that contain four pounds or one gallon or more are not subject to the ''dual declaration'' and may express the product's net weight or net content as a single, accurate statement.

The petition stated that FSIS should eliminate the dual declaration requirements because meat and poultry products do not need to be labeled with dual statements of weight or content, using different units of measurement, to convey accurate weight or amount information to consumers. In addition, the petition stated that the labeling equipment needed to print labels with dual net weight statements can be more expensive than the equipment used to print labels with single net weight statements. According to the petition, the costs associated with the dual declaration labeling requirements may be stifling competition and limiting the ability of start-up and small producers to compete with large producers. The petition is available on FSIS's website at

https://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/petitions.

Proposed Rule

After reviewing the dual declaration labeling requirements, FSIS has determined that the corresponding sections in the regulations are unnecessary. FSIS is proposing to eliminate all of the provisions in 9 CFR 317.2(h) and 381.121(c) that require or cross-reference dual net weight or content statements. Package labeling of meat or poultry products in amounts subject to the current requirements do not need dual statements of weight or content, using different units of measurement, to convey accurate weight or amount information to consumers. If this proposed rule becomes final, establishments that produce meat and poultry products in packages containing 1 pound or 1 pint and less than 4 pounds or one gallon will be required to only express the weight or contents in one unit of measurement on the product label (*e.g.,* ''Net Wt. 24 oz.'' or ''Net Wt. 1.5 lbs.'', rather than ''Net Wt. 24 oz. (1.5 lbs.)''). Establishments will be allowed to use their current labels until they run out, or may elect to use them indefinitely, as a matter of choice.

FSIS did not find that the labeling equipment needed to print labels with dual net weight or content statements is more expensive than the equipment used to print labels with single net weight or content statements. FSIS is requesting comments on the costs associated with printing the dual declaration on labels.

Executive Orders 12866 and 13563, and the Regulatory Flexibility Act

E.O.s 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety benefits, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule has been designated as a ''non-significant'' regulatory action under section 3(f) of E.O. 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget (OMB) under E.O. 12866.

Economic Impact Analysis

Baseline

Currently, packages of meat or poultry products that contain at least one pound or one pint, but less than four pounds or one gallon, are required to express the net weight or content as a ''dual declaration'' (*i.e.,* in both ounces and pounds or fluid ounces and pints, or quarts) on the product label, unless an exemption [1] applies. According to 2015 Information Resources, Inc., (IRI) scanner data,[2] about 31,679 FSIS regulated products in the retail market have a dual net weight or content statement on the label. About 62 percent (2,594/4,184) of FSIS regulated companies manufacture at least one product with a dual net weight or content statement, and over 35 percent (1,500/4,184) of FSIS regulated companies manufacture products with both a dual and single net weight or content statement.

Expected Cost Savings and Benefits Associated With the Proposed Rule

The proposed amendments to 9 CFR 317.2(h)(5) and 9 CFR 381.121(c)(5) remove the requirements for dual net weight or content statements on labels of meat and poultry products that contain at least one pound or one pint, but less than four pounds or one gallon. Under the proposed rule, all FSIS meat and poultry products would need to include only one unit of measurement in the net weight or content statement. Industry would benefit from consistent and more flexible net weight and content statement regulations across all FSIS meat and poultry products, especially start-up companies and companies with products having both single and dual net weight or content statements. Companies would no longer have to keep track of which products need to include a dual or single net weight or content declaration.

The proposed changes would also clarify the net weight and content requirements for the industry and FSIS inspectors. When FSIS analyzed historical askFSIS [3] data, it showed confusion surrounding the dual declaration net weight and content requirements. Industry often incorrectly interpreted the dual declaration net weight and content requirements as needing to include both the avoirdupois measure (ounces or pounds) and the metric measure (grams or kilograms) in the net weight or content statement. FSIS also received askFSIS questions about exemptions. For example, industry wanted to know if random weight packages, packages under one pound, and products sold for further processing were exempt from the dual declaration net weight and content requirements. The remaining questions sought formatting clarification on the order of the measurements and about the line spacing. Questions regarding the order sought clarification on which measurements should be listed first: Pounds or ounces, fluid ounces or pints or quarts. Industry also asked if the second net weight or content declaration could be listed on a separate line to better fit on labels. If the proposed changes are finalized, FSIS expects the net weight and content requirements will be clearer and there will be fewer askFSIS questions and less misunderstanding of the net weight and content requirements.

Further, the likelihood of misprinted labels should decrease under the proposed rule. FSIS's Labeling and Program Delivery Staff (LPDS) evaluates sketches of labels [4] through the Label Submission and Approval System (LSAS) prior to the associated labels entering the marketplace. According to 2017 LSAS data, LPDS approved twelve labels from eight firms contingent on correction of errors in the dual net weight statement. These labels would not have needed modifications to their net weight statement under the proposed changes.

In addition, removing the dual declaration requirements would free-up a small amount of space on the principal display panel of labels. Switching from dual declarations to single declarations could also marginally decrease ink consumption for companies.

FSIS did not find a price difference in capital printing equipment for complying with the dual declaration net weight or content statement. However, there is a price difference in scale-printing systems for printing a dual net weight or content statement versus a single statement. Companies typically use scale-printing systems to print net weight information on random weight packages (*e.g.,* sliced turkey from a deli counter). Random weight packages with varying weight and with no fixed weight

[1] See 9 CFR 317.2(h)(9) and 381.121(h)(9) for the list of exemptions.

[2] IRI gathers data by scanners in supermarkets, drugstores, and mass merchandisers and maintains a panel of consumer households that record purchases at outlets by scanning UPC codes on the products purchased.

[3] askFSIS is a web-based computer application, designed to help answer technical and policy-related questions from inspection program personnel, industry, consumer groups, other stakeholders, and the public.

[4] LPDS evaluates four types of FSIS labels; (1) Labels for religious exempt products, (2) Labels for export with deviations from domestic requirements, (3) Labels with special statements and claims, and (4) Labels for temporary approval. All other labels can be generically approved. Additional information on generically approved labels is available here: *https://www.fsis.usda.gov/wps/wcm/connect/bf170761-33e3-4a2d-8f86-940c2698e2c5/Label-Approval-Guide.pdf?MOD=AJPERES/.*

pattern are currently exempt from the dual declaration net weight and content statement requirement. Therefore, the scale-printer cost discrepancies were not included in the cost analysis. FSIS seeks comment on capital costs for printing equipment for the dual declaration net weight and content statement.

Expected Costs Associated With the Proposed Rule

There are no expected costs associated with this proposed rule. Companies that already have products labeled with the two measurements in the net weight or contents statement are not required to update their labels to a single net weight or contents statement.

Regulatory Flexibility Act Assessment

The FSIS Administrator has made a preliminary determination that this proposed rule would not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). The proposed rule is not expected to increase costs to the industry.

Executive Order 13771

Consistent with E.O. 13771 (82 FR 9339, February 3, 2017), FSIS has estimated that this proposed rule would yield qualitative cost savings. Therefore, if finalized as proposed, this rule is expected to be an E.O. 13771 deregulatory action.

Paperwork Reduction Act

There are no new paperwork or recordkeeping requirements associated with this proposed rule under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Executive Order 12988, Civil Justice Reform

This proposed rule has been reviewed under E.O. 12988, Civil Justice Reform. Under this rule: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) no administrative proceedings will be required before parties may file suit in court challenging this rule.

E-Government Act

FSIS and USDA are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601, *et seq.*) by, among other things, promoting the use of the internet and other information technologies and providing increased opportunities for citizen access to Government information and services, and for other purposes.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of E.O. 13175, ''Consultation and Coordination with Indian Tribal Governments.'' E.O. 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.

FSIS has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a Tribe requests consultation, FSIS will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified herein are not expressly mandated by Congress.

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, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS also will make copies of this publication available 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 available on the FSIS web page. Through the web page, FSIS is able to 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.

List of Subjects

9 CFR Part 317

Food labeling, Food packaging, Meat inspection, Nutrition, Reporting and recordkeeping requirements.

9 CFR Part 381

Administrative practice and procedure, Animal diseases, Crime, Exports, Food grades and standards, Food labeling, Food packaging, Government employees, Grant programs-agriculture, Intergovernmental relations, Laboratories, Meat inspection, Nutrition, Polychlorinated biphenyls (PCB's), Poultry and poultry products, Reporting and recordkeeping requirements, Seizures and forfeitures, Signs and symbols, Technical assistance, Transportation.

For the reasons set out in the preamble, FSIS is proposing to amend 9 CFR parts 317 and 381 as follows:

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

■ 1. The authority citation for part 317 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

§ 317.2 [Amended]

■ 2. In § 317.2:

■ a. Paragraph (h)(4) is amended by removing the phrase ''except as provided for in paragraph (h)(5) of this section for random weight packages; a declaration of 1½ pounds avoirdupois weight shall be expressed as 'Net Wt. 24 oz. (1 lb. 8 oz.),' 'Net Wt. 24 oz. (1½ lb.),' or 'Net Wt. 24 oz. (1.5lbs).' '';

■ b. Paragraph (h)(5) is removed and reserved.

■ c. Paragraph (h)(9)(i) is amended by removing the phrase '', dual declaration,'' from the second and fourth sentences;

■ d. Paragraph (h)(9)(iii) is amended by removing the phrase '', dual declaration,'';

■ e. Paragraphs (h)(9)(iv) and (v) are amended by removing the word ''paragraphs'' and adding in its place ''paragraph'' and removing the phrase ''and (5)'';

■ f. Paragraph (h)(9)(v) is further amended by removing the phrase '', and that the statement be expressed both in ounces and in pounds,''; and

■ g. Paragraph (h)(12) is amended by removing the phrase '', except that such declaration of total quantity need not be followed by an additional parenthetical declaration in terms of the largest whole units and subdivisions thereof, as required by paragraph (h)(5) of this section''.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

■ 3. The authority citation for part 381 is revised to read as follows:

Authority: 7 U.S.C. 138f, 1633; 21 U.S.C. 451–472; 7 CFR 2.7, 2.18, 2.53.

■ 4. In § 381.121:

■ a. Paragraph (c)(5) is revised;

■ b. The first sentence in paragraph (c)(8) is amended by removing '', except that such declaration of total quantity need not be followed by an additional parenthetical declaration in terms of the largest whole units and subdivisions thereof, as otherwise required by this paragraph (c)'';

■ c. Paragraph (c)(9)(i) is amended by removing the phrase '', dual declaration,'' from the second and fourth sentences; and

■ d. Paragraph (c)(9)(iii) is amended by removing the phrase '', dual declaration,''.

The revision reads as follows:

§ 381.121 Quantity of contents.

* * * * *

(c) * * *

(5) The terms ''net weight'' or ''net wt.'' shall be used when stating the net quantity of contents in terms of weight, and the term ''net contents'' or ''contents'' when stating the net quantity of contents in terms of fluid measure. Except as provided in § 381.128, the statement shall be expressed in terms of avoirdupois weight or liquid measure. Where no general consumer usage to the contrary exists, the statement shall be in terms of liquid measure, if the product is liquid, or in terms of weight if the product is solid, semi-solid, viscous, or a mixture of solid and liquid.

* * * * *

Done in Washington, DC.

Carmen M. Rottenberg,

Administrator.

[FR Doc. 2019–07634 Filed 4–16–19; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. FAA–2019–0280]

Proposed Primary Category Design Standards; Cub Crafters, Inc., Model CC21–180 Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability; request for comments.

SUMMARY: This document announces the existence of and requests comments on the proposed airworthiness design standards for acceptance for the type certification of the Cub Crafters, Inc., Model CC21–180 airplane under the regulations for primary category aircraft.

DATES: Comments must be received on or before May 17, 2019.

ADDRESSES: Send comments identified by docket number FAA–2019–0280 using any of the following methods:

• *Federal eRegulations Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.

• *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

• *Hand Delivery of Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

• *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://regulations.gov,* including any personal information the commenter provides. Using the search function of the docket website, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond N. Johnston, AIR–692, Federal Aviation Administration, Policy & Innovation Division, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, MO 64106, telephone (816) 329–4159, FAX (816) 329–4090, email *raymond.johnston@faa.gov.*

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this information by contacting the person named above under **FOR FURTHER INFORMATION CONTACT**.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the design criteria, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will consider all comments received on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these airworthiness design criteria based on received comments.

Background

The ''primary'' category for aircraft was created specifically for the simple, low performance personal aircraft. Section 21.17, Designation of applicable

regulations, paragraph (f) provides a means for the FAA to determine appropriate airworthiness standards for the particular primary category aircraft. The FAA procedure establishing appropriate airworthiness standards includes reviewing and possibly revising an applicant's proposal, publication of the submittal in the **Federal Register** for public review and comment, and addressing the comments. After all necessary revisions, the standards are published as approved FAA airworthiness standards.

Accordingly, Cub Crafters, Inc., has submitted these proposed airworthiness standards for the Model CC21–180 airplane under § 21.17(f).

Proposed Airworthiness Standards for Acceptance Under the Primary Category Rule

This document prescribes airworthiness standards for the issuance of a type certification for the Cub Crafters, Inc., Model CC21–180, a primary category airplane. These proposed airworthiness standards have a long safe service history in similar airplanes; therefore, they provide an appropriate level of safety. The proposed airworthiness standards are based on standards that were used to certify the same design as a normal and utility category airplane, Cub Crafters CC19–180, in accordance with FAA Type Certiciate A00053SE.

For the Airplane

Title 14, Code of Federal Regulations (14 CFR) part 23, effective December 18, 1964, as amended by 23–1 through 23–62, all sections except § 23.562 Emergency Landing Dynamic Conditions, and as modified by the following:

Equivalent Level of Safety (ELOS) No. TC10279SE–A–C–1 for the emergency exit requirements of § 23.807 [1]

ELOS No. AT12936SE–A–S–1 for the electronic display instrument system requirements of § 23.1311 [2]

ELOS No. TC10279SE–A–G–9 for corrections to technical errors in amendment 23–62 [3]

ELOS No. AT12949SE–A–F–1 for the longitudinal trim requirements of § 23.161 [4]

For Noise Standards

14 CFR part 36 as amended by 36–1 through 36–30, appendix G.

Issued in Kansas City, Missouri, on April 8, 2019.

Pat Mullen,

Manager, Small Airplane Standards Branch, Aircraft Certification Service.

[FR Doc. 2019–07592 Filed 4–16–19; 8:45 am]

BILLING CODE 4910–13–P

[1] *See http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgELOS.nsf/0/F3FC2C42E551237F86257FC60046467D?OpenDocument&Highlight=tc10279se-a-c-1.*

[2] *See http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgELOS.nsf/0/E441A4F21736F7E98625814500674B2A?OpenDocument.*

[3] *See http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgELOS.nsf/0/773696FE2DDEA61D86257FF50065B4B6?OpenDocument.*

[4] *See http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgELOS.nsf/0/0D9E358153C4CF028625825D005E5D15?OpenDocument.*

Notices

Federal Register

Vol. 84, No. 74

Wednesday, April 17, 2019

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0103]

Notice of Proposed Revision To Import Requirements for the Importation of Fresh Fragrant Pears From China Into the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that we have prepared a pest risk analysis relative to the importation into the United States of fragrant pears from an additional area of production in China. Based on the findings of the analysis, we are proposing to authorize the importation of fragrant pears from this additional area of production in China and revise the conditions under which fragrant pears from authorized areas of production in China may be imported into the United States. We are making the pest risk analysis available to the public for review and comment.

DATES: We will consider all comments that we receive on or before June 17, 2019.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docket Detail;D=APHIS-2017-0103.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2017–0103, 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/#!docket Detail;D=APHIS-2017-0103* 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: Mr. Marc Phillips, Senior Regulatory Policy Specialist, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 851–2114.

SUPPLEMENTARY INFORMATION: Under the regulations in ''Subpart L–Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–12, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into or disseminated within the United States.

Section 319.56–4 of the regulations provides the requirements for authorizing the importation of fruits and vegetables into the United States, as well as revising existing requirements for the importation of fruits and vegetables. Paragraph (c) of that section provides that the name and origin of all fruits and vegetables authorized importation into the United States, as well as the requirements for their importation, are listed on the internet in APHIS' Fruits and Vegetables Import Requirements database, or FAVIR (*https://epermits.aphis.usda.gov/manual*). It also provides that, if the Administrator of APHIS determines that any of the phytosanitary measures required for the importation of a particular fruit or vegetable are no longer necessary to reasonably mitigate the plant pest risk posed by the fruit or vegetable, APHIS will publish a notice in the **Federal Register** making its pest risk analysis and determination available for public comment.

Currently, fragrant pear from China is listed in FAVIR as a fruit authorized importation into the United States, subject to phytosanitary measures. In summary, these measures require that:

- Fragrant pears may only be imported from China if they are grown in the Korla region of Xinjiang Province at a production site that is registered with the national plant protection organization (NPPO) of China.
- The fragrant pears must be produced from propagative material that has been certified as free of quarantine pests.
- Registered places of production are subject to pre- and post-harvest inspections.
- Fragrant pears must be packed in labeled cartons.
- Fragrant pears must be held in a cold storage facility while awaiting export.
- If the cold storage facility also stores fruit from unregistered production sites, the pears must be isolated from such fruit.
- Fragrant pears must be shipped in insect-proof containers.
- Each consignment must be accompanied by a phytosanitary certificate stating that the requirements listed above have been met and that the consignment has been inspected and found free of quarantine pests.
- Fragrant pears are subject to inspection at the port of entry into the United States.
- Fragrant pears must be imported under permit.

APHIS received a request from the NPPO of China to allow imports of fragrant pears from an expanded production area that would include the Akesu region as well as the currently approved Korla region of Xinjiang Province. The request was for market access to the entire United States, comprising all 50 States and U.S. territories. In response to the request, APHIS prepared a pest list to evaluate the pests of quarantine significance that could follow the pathway of importation of fragrant pears from the Akesu and Korla regions of Xinjiang Province in China into the United States.

In preparing the pest list, we discovered that our existing requirements for fragrant pear from China were based on a 1997 pest risk assessment (PRA) for all pear species from all of China, rather than limiting the assessment to fragrant pears from Xinjiang Province. In that same 1997 PRA, we also misidentified the fragrant pears as belonging to the species *Pyrus* sp. nr. *communis,* rather than the species *Pyrus x sinkiangensis* Yu. Our new pest list corrects these errors. The pest list identifies two pests of quarantine significance that could follow the pathway of importation of fragrant pears from the Akesu and Korla

regions of Xinjiang Province in China into the United States: *Eulecanium circumfluum* Borchsenius, a soft scale, and *Euzophera pyriella* Yang, the pyralid moth.

Based on the pest list, a risk management document (RMD) was prepared to identify the phytosanitary measures that could be applied to the importation of fragrant pears from the Akesu and Korla regions of Xinjiang Province to mitigate the pest risk.

We have determined that fragrant pears can safely be imported from the Akesu and Korla regions of Xinjiang Province subject to the following phytosanitary measures:

- The fragrant pears must be grown in the Akesu or Korla region at a production site that is registered with the NPPO of China.
- Registered production sites must have in place a production site control program approved by APHIS and the NPPO of China.
- The NPPO of China is responsible for ensuring that registered production sites are subject to field sanitation and that growers are aware of quarantine pests and control measures to be taken for their control. Such measures must be described in detail in an operational workplan approved by the NPPO of China and APHIS.
- Only intact fruits may be harvested for export and the harvested fruit must be safeguarded against quarantine pests from the production site until the consignment is shipped.
- Fragrant pears must be packed in a packinghouse registered with the NPPO of China.
- The packinghouses must have a tracking system in place that will allow for traceback of the fruit to individual production sites.
- Registered packinghouses are prohibited from packing fragrant pears destined for other countries while packing fruit destined for the United States.
- Packinghouse procedures must be in accordance with the operational workplan.
- Each shipping box must be marked with the identity of the packinghouse and grower.
- Each consignment of fragrant pears must be accompanied by a phytosanitary certificate issued by the NPPO of China attesting to place of origin (production site and region) and stating that all APHIS phytosanitary requirements have been met and that the consignment was inspected and found free of quarantine pests.
- Fragrant pears may be imported as commercial consignments only.
- Fragrant pears are subject to inspection at the port of entry into the United States.
- Fragrant pears must be imported under permit.

Therefore, in accordance with § 319.56–4(c)(3), we are announcing the availability of our pest list and RMD for public review and comment. Those documents, as well as a description of the economic considerations associated with the importation of fresh fragrant pears from the Akesu and Korla regions of Xinjiang Province in China, may be viewed on the *Regulations.gov* website or in our reading room (see **ADDRESSES** above for a link to *Regulations.gov* and information on the location and hours of the reading room). You may request paper copies of these documents by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the analysis you wish to review when requesting copies.

After reviewing any comments we receive, we will announce our decision regarding whether to revise the requirements for the importation of fragrant pears from China in a subsequent notice. If the overall conclusions of our analysis and the Administrator's determination of risk remain unchanged following our consideration of the comments, then we will revise the requirements for the importation of fragrant pears from China in accordance with this notice.

Authority: 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 10th day of April 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–07665 Filed 4–16–19; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Fresno and Madera County Resource Advisory Committees

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Fresno and Madera Counties Resource Advisory Committees (RAC) will meet in Clovis, California. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following website: *https://www.fs.usda.gov/main/sierra/workingtogether/advisorycommittees.*

DATES: The meeting will be held on the following dates:

- Tuesday, May 7, 2019, from 6:00 p.m. to 8:00 p.m.,
- Tuesday, May 14, 2019, from 6:00 p.m. to 8:00 p.m.,
- Tuesday, May 21, 2019, from 6:00 p.m. to 8:00 p.m., and
- Tuesday, May 28, 2019, from 6:00 p.m. to 8:00 p.m.

All RAC meetings are subject to cancellation. For updated status of the meetings prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meetings will be held at the Sierra National Forest Supervisor's Office, 1600 Tollhouse Road, Clovis, California 93611.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Sierra National Forest Supervisor's Office, 1600 Tollhouse Road, Clovis, California. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Julie Roberts, RAC Coordinator, by phone at 559–297–0706 or via email at *jaroberts@usda.gov.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to:

(1) Review funding,

(2) review proposals, and

(3) possibly vote to recommend proposals.

These meetings are open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by April 23, 2019, to be scheduled on the agenda for the May 7, 2019 meeting; April 30, 2019, to be scheduled on the agenda for the May 14, 2019 meeting; May 7, 2019, to be

scheduled on the agenda for the May 21, 2019 meeting; and May 14, 2019, to be scheduled on the agenda for the May 28, 2019 meeting. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Julie Roberts, RAC Coordinator, Sierra National Forest, 1600 Tollhouse Road, Clovis, California 93611; or by email to *jaroberts@usda.gov,* or via facsimile to 559–294–4809.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: March 25, 2019.

Allen Rowley,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2019–07607 Filed 4–16–19; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Hood-Willamette Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Hood-Willamette Resource Advisory Committee (RAC) will meet in Keizer, Oregon. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following website: *https://www.fs.usda.gov/main/willamette/workingtogether/advisorycommittees.*

DATES: The meeting will be held on Monday, July 1, 2019, at 12:30 p.m.

All RAC meetings are subject to cancellation. For updated status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at the Keizer Community Center, Claggett Room, 930 Chemawa Road Northeast, Keizer, Oregon.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Salem Oregon. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Jennifer Sorensen, RAC Coordinator, by phone at 541–510–1102 or via email at *Jennifer.Sorensen@usda.gov.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Introduce all the RAC members to one another;
2. Update all RAC members on the status of the SRS program, and the pending nomination package for new RAC members; and
3. Review and make recommendations on 27 new or modified recreation fee proposals submitted by the Columbia River Gorge National Scenic Area (1 proposal) and the Willamette National Forest (26 proposals).

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by June 25, 2019, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Jennifer Sorensen, RAC Coordinator, 3106 Pierce Parkway, Suite D, Springfield, Oregon 97477; or by email to *Jennifer.Sorensen@usda.gov.*

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: March 29, 2019.

Allen Rowley,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2019–07610 Filed 4–16–19; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Wrangell-Petersburg Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Wrangell-Petersburg Resource Advisory Committee (RAC) will meet in Petersburg, Alaska and Wrangell, Alaska. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following website: *https://cloudapps-usda-gov.secure.force.com/FSSRS/RAC_Page?id=001t0000002JcwHAAS.*

DATES: The meetings will be held on the following dates:

- Saturday, May 11, 2019, from 8:00 a.m. to 2:00 p.m., and
- Saturday, May 25, 2019, from 8:00 a.m. to 3:00 p.m., or until business is concluded each day.

All RAC meetings are subject to cancellation. For updated status of the meetings prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at the Wrangell Ranger District office, 525 Bennett Street, Wrangell, Alaska, and at the Petersburg Ranger District office, 12 North Nordic Drive, Petersburg, Alaska. The two locations will be connected via videoteleconference. Interested persons may attend in person at either location, or by teleconference. Anyone who would like to attend by teleconference, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are

available for public inspection and copying. The public may inspect comments received at the Petersburg Ranger District Office or the Wrangell Ranger District Office, Monday through Friday at 8:00 a.m. to 4:30 p.m. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Linda Slaght, RAC Coordinator, by phone at 907–772–5948 or via email at *lslaght@fs.fed.us*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Review progress of previously funded projects;

2. Review new project proposals; and

3. Conclude any business that may be remaining concerning recommendations for allocation of Title II funding to projects.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by Friday, May 3, 2019, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments may be sent to Linda Slaght, RAC Coordinator, Post Office Box 1328, Petersburg, Alaska 99833; by email to *lslaght@fs.fed.us* or via facsimile to 907–772–5995.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: March 29, 2019.

Allen Rowley,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2019–07608 Filed 4–16–19; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Olympic Peninsula Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Olympic Peninsula Resource Advisory Committee (RAC) will meet in Montesano, Washington. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following website: *https://www.fs.usda.gov/detail/olympic/workingtogether/advisorycommittees/?cid=fsbdev3_049547.*

DATES: The meeting will be held on the following dates:

- Friday, May 10, 2019, at 8:30 a.m., and
- Thursday, May 23, 2019, at 8:30 a.m., if needed.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at the Montesano City Hall Meeting Room, 112 North Main Street, Montesano, Washington.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Olympic National Forest Supervisor's Office, 1835 Black Lake Boulevard, Olympia, Washington. Please call ahead at 360–956–2200 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Susan Garner, RAC Coordinator, by phone at 360–956–2390 or via email at *scgarner@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss, recommend, and approve new Title II projects.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by Friday, May 1, 2019, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Susan Garner, RAC Coordinator, 1835 Black Lake Boulevard, Southwest, Olympia, Washington 98512; by email to *scgarner@fs.fed.us* or via facsimile at 360–965–2320.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: March 22, 2019.

Allen Rowley,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2019–07604 Filed 4–16–19; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Butte County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Butte County Resource Advisory Committee (RAC) will meet in Oroville, California. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the Title II of the Act. RAC information, including the meeting summary/minutes can be found at the following website: *https://cloudapps-usda-gov.secure.force.com/*

FSSRS/RAC_Page?id=001t000 0002JcwRAAS .

DATES: The meeting will be held on Monday, May 6, 2019, from 6:30 p.m. to 8:30 p.m.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at the Forest Service Feather River Ranger District Office, 875 Mitchell Avenue, Oroville, California.

Written comments may be submitted as described under Supplementary Information. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Plumas National Forest Headquarters, 159 Lawrence Street, Quincy, California. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Lee Anne Schramel, Butte County RAC Coordinator, by phone at (530) 283–7850 or via email at *easchramel@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Review project proposals, and
2. Make project funding recommendations for Title II funds.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by April 29, 2019, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Lee Anne Schramel, Plumas County RAC Coordinator, Plumas National Forest Headquarters, 159 Lawrence Street, Quincy, California 95971; by email at *easchramel@fs.fed.us,* or via facismile at (530) 283–7746.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: March 29, 2019.

Allen Rowley,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2019–07609 Filed 4–16–19; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Yavapai County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Yavapai County Resource Advisory Committee (RAC) will meet in Prescott, Arizona. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following website: *https://www.fs.usda.gov/main/prescott/workingtogether/advisorycommittees.*

DATES: The meeting will be held on May 31, 2019, from 8:00 a.m. to 11:00 a.m.

All RAC meetings are subject to cancellation. For updated status of the meetings prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at the Prescott National Forest Supervisor's Office, 2971 Willow Creek Road, Building 4, Prescott, Arizona.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Prescott National Forest Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Debbie Maneely, RAC Coordinator, Prescott National Forest, 2971 Willow Creek Road, Building 4, Prescott, Arizona 86301, by telephone at (928) 443–8130 or via email at *dmaneely@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss the following:

(1) Welcome and Introductions;
(2) Overview of Secure Rural Schools Act, RAC Overview, and Discussion of the Roles of the Designated Federal Officer and Committee Members;
(3) Review RAC Charter and Operating Guidelines;
(4) RAC Project Overview;
(5) Selection of RAC Chairperson; and
(6) Questions, Answers, and Next Steps

These meetings are open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by May 24, 2019, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meetings.

Written comments and requests for time for oral comments must be sent to Debbie Maneely, RAC Coordinator, Prescott National Forest, 2971 Willow Creek Road, Building 4, Prescott, Arizona 86301; by telephone at (928) 443–8130 or via email at *dmaneely@fs.fed.us.*

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: March 25, 2019.

Allen Rowley,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2019–07606 Filed 4–16–19; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Wenatchee-Okanogan Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Wenatchee-Okanogan Resource Advisory Committee (RAC) will meet in Wenatchee, Washington.

The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information, including the meeting summary/minutes can be found at the following website: *https://www.fs.usda.gov/main/okawen/workingtogether/advisorycommittees.*

DATES: The meeting dates will be held on the following dates:

- May 22, 2019–May 23, 2019, from 9:00 a.m. to 3:30 p.m.,
- May 29, 2019–May 30, 2019, from 9:00 a.m. to 3:30 p.m., and
- June 12, 2019–June 13, 2019, from 9:00 a.m. to 3:30 p.m.

All RAC meetings are subject to cancellation. For updated status of meetings prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Okanogan-Wenatchee National Forest Headquarters Office, 215 Melody Lane, Wenatchee, Washington.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Okanogan-Wenatchee National Forest Headquarters Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Robin DeMario, RAC Coordinator, by phone at 509–664–9292 or via email at *robin.demario@usda.gov.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to:

1. Provide status updates regarding Secure Rural Schools Program and Title II funding; and
2. Review and recommend projects for Title II funding for Okanogan, Chelan, Kittitas and Yakima Counties.

These meetings are open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by May 6, 2019, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meetings.

Written comments and requests for time for oral comments must be sent to Robin DeMario, RAC Coordinator, 215 Melody Lane, Wenatchee, Washington 98801; by email to *robin.demario@usda.gov* or via facsimile to 509–664–9286.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: March 25, 2019.

Allen Rowley,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2019–07605 Filed 4–16–19; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the Vegetable Surveys Program. Revision to burden hours will be needed due to changes in the size of the target population, sampling design, and/or questionnaire length. Some of the vegetable production surveys will incorporate sampling of the total population of producers, while the processing surveys will involve a total enumeration of the entire population. Changes are being made to the commodities and States included in this group of surveys based on the comprehensive program review, which took place following the completion of the 2017 Census of Agriculture. Changes are also being made to some of the questionnaires to accommodate changes in the industry and to make the questionnaires easier for the respondent to complete. This should help to reduce respondent burden and improve the overall response rates.

DATES: Comments on this notice must be received by June 17, 2019 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0037, by any of the following methods:

- *Email: ombofficer@nass.usda.gov.* Include docket number above in the subject line of the message.
- *E-fax:* (855) 838–6382.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336, South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336, South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: Kevin L. Barnes, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–2707. Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS—OMB Clearance Officer, at (202) 690–2388 or at *ombofficer@nass.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Vegetable Surveys Program.

OMB Number: 0535–0037.

Expiration Date of Approval: August 31, 2019.

Type of Request: Intent to Seek Approval to Revise and Extend an Information Collection for 3 years.

Abstract: The primary objective of the National Agricultural Statistics Service (NASS) is to collect, prepare, and issue State and national estimates of crop and livestock production, prices, and disposition; as well as economic statistics, environmental statistics related to agriculture and also to conduct the Census of Agriculture. The Vegetable Surveys Program obtains basic agricultural statistics for fresh market and processing vegetables in major producing States. Vegetable statistics are used by the U.S. Department of Agriculture to help administer programs and by growers, processors, and marketers in making production and marketing decisions. The Federal vegetable estimation program now consists of 26 selected crops.

Every 5 years NASS conducts a program review following the completion of the Census of Agriculture. The primary purpose is to ensure that the NASS annual estimating program targets commodities and states most relevant based on the latest available information. Last fall NASS announced the program review and requested stakeholder input. The primary source of information for the program review is the Census of Agriculture, since it is the most comprehensive source of data; however we also take into consideration estimates from the current annual estimating program and administrative data. The detailed listing of program changes can be found at the following link: *https://www.nass.usda.gov/Surveys/Program_Review/2019/Vegetable-Program.pdf.* All questionnaires included in this information collection will be voluntary.

Authority: These data will be collected under authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–113) and Office of Management and Budget regulations at 5 CFR part 1320. NASS also complies with OMB Implementation Guidance, ''Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA),'' **Federal Register**, Vol. 72, No. 115, June 15, 2007, p. 33362.

Estimate of Burden: Public reporting burden for this collection of information is estimated to be between 5 and 20 minutes per respondent per survey.

Respondents: Farms and businesses.

Estimated Number of Respondents: 14,000.

Estimated Total Annual Burden on Respondents: 5,000 hours.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated, electronic, mechanical, technological or other forms of information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, April 1, 2019.

Kevin L. Barnes,

Associate Administrator.

[FR Doc. 2019–07666 Filed 4–16–19; 8:45 am]

BILLING CODE 3410–20–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Connecticut Advisory Committee; Correction

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of public meeting of the Connecticut Advisory Committee—correction.

SUMMARY: The Commission on Civil Rights published a notice in the **Federal Register** of Tuesday, April 9, 2019, concerning a meeting of the Connecticut Advisory Committee. The date and time of the meeting will change from Tuesday, April 16, 2019 at 3:15 p.m. EDT to Wednesday, April 17, 2019 at 12:00 p.m. EDT.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor, (303) 866–1040, *ebohor@usccr.gov.*

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of Tuesday, April 9, 2019, in FR Doc. 2019–06989, on page 14085, third column; and on page 14086, first and second column, correct the ''Dates'' caption to read:

DATES: Wednesday, April 17, 2019 at 12:00 p.m. (EDT).

Dated: April 11, 2019.

Brian Walch,

Director, Communications and Public Engagement.

[FR Doc. 2019–07584 Filed 4–16–19; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; 2020 Census Post-Enumeration Survey Initial and Final Housing Unit Follow-Up

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: To ensure consideration, written comments must be submitted on or before June 17, 2019.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *docpra@doc.gov*). You may also submit comments, identified by Docket number USBC–2019–0002, to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* All comments received are part of the public record. No comments will be posted to *http://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Robin A. Pennington, U.S. Census Bureau, 4600 Silver Hill Road, Room 2H465, Washington, DC 20233, 301–763–8132 (or via the internet at *Robin.A.Pennington@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

As in previous censuses, the Post-Enumeration Survey (PES) for the 2020 Census will be conducted to provide estimates of census net coverage and components of census coverage (such as correct enumerations, omissions, erroneous enumerations [including duplicates], and whole-person imputations) for housing units and people living in housing units for the United States and Puerto Rico, excluding remote Alaska. (See Definition of Terms.) Group quarters (such as college dormitories and correctional facilities) are out of scope

because populations can change significantly between census enumeration and PES enumeration operations. Similarly, remote Alaska is out of scope for the PES because the seasonal nature of addresses and the population throughout the year make it infeasible to accurately conduct the matching and follow-up operations necessary for dual-system estimation. For this reason, the Census Bureau's past post-enumeration surveys have never included remote Alaska. These coverage estimates provide insight into the quality and coverage of census results and operations. As in the past, including in the 2010 Census Coverage Measurement program, the 2020 PES operations and activities must be conducted separate from, and independent of, the other 2020 Census operations.

The 2020 PES will use the dual-system estimation procedure, which depends on two independent systems of measurement. The independence between the PES and census operations is a fundamental necessity for dual-system estimation. The PES will comprise two independent enumerations of housing units and the household population within the same sample areas. These two enumerations are called the enumeration sample (E sample) and the population sample (P sample). The primary sampling unit is the basic collection unit (BCU), which is the smallest unit of collection geography for 2020 Census operations. The E sample contains the list of housing units and people enumerated in the 2020 Census within a sample of BCUs. The P sample contains housing units and people in the sample set of sample BCUs, but obtained independently from the census. The independent roster of housing units is obtained during the PES Independent Listing, while the independent roster of people is obtained during the PES Person Interview. The P sample housing units and people will be matched to all census housing units in the sample BCUs and surrounding BCUs.

During the Independent Listing operation, field staff, referred to as ''listers,'' will canvass every street, road, or other place where people might live in their assigned BCUs and construct a list of housing units from scratch. Following the completion of listing for each BCU, the addresses are computer and clerically matched in the Initial Housing Unit Matching operation. Addresses that remain unmatched or have unresolved address status after matching will be sent to the Initial Housing Unit Follow-up operation, during which listers collect additional information that might allow a resolution of any differences between the Independent Listing and the preliminary census address list results. Matching to a preliminary census file of housing units allows the PES to conduct person interviews close to census day (April 1, 2020), rather than waiting until the final census list is available. In the Final Housing Unit Matching operation addresses collected in the Independent Listing operation are matched to the final census list of housing units. The Initial Housing Unit Follow-up field operation seeks to answer questions needed to resolve the match or enumeration status of addresses identified in the Initial Housing Unit matching operation, while the Final Housing Unit Follow-up field operation seeks to answer similar questions identified in the Final Housing Unit matching operation. A Federal Register Notice has been issued for the PES Independent Listing operation (Federal Register Notice Vol. 83 FR 53849, pages 53849–53850). Federal Register Notices for the Person Interview and Person Follow-up operations will be issued at a later date.

Addresses identified for both Initial and Final Housing Unit Follow-ups will generally need additional information to determine housing unit status (for example, to clarify if the addresses refer to a housing unit or commercial building and to identify duplicate addresses) or to resolve inconsistencies between the PES and census addresses. Using paper questionnaires tailored to capture information needed to resolve each specific status question or discrepancy, listers will contact a member of each housing unit and ask questions to resolve housing unit status or to clarify discrepancies. If the listers do not find anyone at home after several attempts, they will try to collect the information from a proxy or by observation as a last resort. Proxies are respondents who are not members of the household.

The Initial and Final Housing Unit Follow-up operations will also have separate quality control operations. The first quality control operation is the Initial Housing Unit Follow-up Quality Control, which contains 15 percent of the Initial Housing Unit Follow-up workload. The second quality control operation is the Final Housing Unit Follow-up Quality Control, which contains 15 percent of the Final Housing Unit Follow-up workload. These operations are implemented to ensure that the work performed is of acceptable quality.

II. Method of Collection

The Housing Unit Follow-up and Housing Unit Follow-up Quality Control operations will be conducted through personal visits using paper questionnaires. Listers will receive work assignments grouped by geography and in close proximity to the lister's residence whenever possible. The PES Initial Housing Unit Follow-up and Initial Housing Unit Follow-up Quality Control operations will occur May 6, 2020 through June 19, 2020. The PES Final Housing Unit Follow-up and Final Housing Unit Follow-up Quality Control operations will occur starting May 19, 2021 through June 18, 2021.

A sample of approximately 180,000 housing units will be selected for the Initial Housing Unit Follow-up operation and approximately 8,000 housing units will be selected for the Final Housing Unit Follow-up operation. Housing Unit Follow-up listers are expected to knock on every door that requires additional information over several spaced visits in their assigned BCUs to try to find a resident or proxy to ask about the units. The Initial Housing Unit Follow-up Quality Control operation will contain about 27,000 housing units and the Final Housing Unit Follow-up Quality Control operation will contain about 1,200 housing units.

Definition of Terms

Components of Census Coverage—The components of census coverage include correct enumerations, erroneous enumerations, whole-person imputations, and omissions. Correct enumerations are people or housing units that were correctly enumerated in the census. Erroneous enumerations are people or housing units that were enumerated in the census but should not have been. Examples of erroneous enumerations are duplicates, nonexistent housing units or people, and people or housing units that were enumerated in the wrong place. Omissions are people and housing units that were not enumerated in the census but should have been. Lastly, whole-person imputations are census records for which all of the demographic characteristics were imputed. Many of these imputations represent people in housing units where we knew the household count but did not obtain sufficient information about the people residing at the housing unit.

Net Coverage—Reflects the difference between the true population (which is estimated by the Post-Enumeration Survey) and the census count. If the census count was less than the actual

number of people or housing units in the population, then we say there was an undercount. If the census count was more than the actual number of people or housing units in the population, then we say there was an overcount.

For more information about the Post-Enumeration Survey, please visit the following page of the Census Bureau's website: *https://www.census.gov/coverage_measurement/post-enumeration_surveys/.*

III. Data

OMB Control Number: 0607–XXXX.

Form Numbers: D–1303, D–1303PR, D–1340, D–1340PR, D–1380, D–1380PR, D–1325, and D–1325PR.

Type of Review: Regular submission.

Affected Public: Individuals or Households.

2020 CENSUS

Operation	Estimated number of respondents	Estimated time per response (in minutes)	Total burden hours
Initial Housing Unit Follow-up	180,000	5	15,000
Initial Housing Unit Follow-up Quality Control	27,000	5	2,250
Final Housing Unit Follow-up	8,000	5	667
Final Housing Unit Follow-up Quality Control	1,200	5	100

Estimated Total Annual Burden Hours: 18,017 hours.

Estimated Total Annual Cost: $0. (This is not the cost of respondents' time, but the indirect costs respondents may incur for such things as purchases of specialized software or hardware needed to report, or expenditures for accounting or records maintenance services required specifically by the collection.)

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, U.S. Code, Sections 141 and 193.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–07611 Filed 4–16–19; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–24–2019]

Foreign-Trade Zone 116—Port Arthur, Texas; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Foreign-Trade Zone of Southeast Texas, Inc., grantee of FTZ 116, requesting authority to expand FTZ 116—Site 1 to include additional acreage in Port Arthur, Texas. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on April 11, 2019.

FTZ 116 was approved on March 20, 1985 (Board Order 296, 50 FR 13261, April 3, 1985). The zone currently consists of three sites (1,084.54 acres): *Site 1* (6.12 acres) is located at the Port of Port Arthur, 4th Street and Dallas Avenue, Port Arthur; *Site 2* (1,070 acres) is located west of U.S. Highway 69 in Port Arthur; and, *Site 3* (8.42 acres) is located at South Gulfway Drive in Port Arthur.

The applicant is requesting authority to expand Site 1 to include the entire 149-acre Port of Port Arthur facilities that would encompass the existing 6.12 acres. No authorization for production activity is being requested at this time. Such requests would be made to the FTZ Board on a case-by-case basis.

In accordance with the FTZ Board's regulations, Camille Evans of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is June 17, 2019. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 1, 2019.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: April 11, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–07683 Filed 4–16–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818, C–475–819, A–489–805, C–489–806]

Certain Pasta From Italy and Turkey: Continuation of the Antidumping Duty and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC)

that revocation of the antidumping duty (AD) and countervailing duty (CVD) orders on certain pasta (pasta) from Italy and Turkey would be likely to lead to a continuation or recurrence of dumping, countervailable subsidies, and material injury to an industry in the United States, Commerce is publishing a notice of continuation of the AD and CVD orders.

DATES: Applicable April 17, 2019.

FOR FURTHER INFORMATION CONTACT: Daniel Deku or Scott Hoefke (AD), AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202–482–5075 or 202–482–4947, respectively. Mary Kolberg or Aimee Phelan (CVD), AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202–482–1785 or 202–482–0697, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 2018, Commerce published the notice of initiation of the fourth sunset reviews of the *Orders* [1] on pasta from Italy and Turkey, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] As a result of its reviews, Commerce determined that revocation of the *Orders* on pasta from Italy and Turkey would likely lead to the continuation or recurrence of dumping and countervailable subsidies.[3] Commerce, therefore, notified the ITC of the magnitude of the margins of dumping and the net countervailable subsidy rates likely to prevail were the *Orders* revoked.[4]

On April 10, 2019, the ITC published its determinations, pursuant to sections 751(c) and 752 of the Act, that revocation of the *Orders* on pasta from Italy and Turkey would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[5]

Scope of the Orders

Italy (A–475–818, C–475–819)

The merchandise subject to the order is pasta. The product is currently classified under items 1901.90.90.95 and 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS numbers are provided for convenience and customs purposes, the written product description available in *Italy AD Order and Italy CVD Order* remains dispositive.[6]

Turkey (A–489–805, C–489–806)

The merchandise subject to the order is pasta. The product is currently classified under items 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS numbers are provided for convenience and customs purposes, the written product description available in *Turkey AD Order and Turkey CVD Order* remains dispositive.[7]

Continuation of the Orders

As a result of the determinations by Commerce and the ITC that revocation of the *Orders* would likely lead to a continuation or a recurrence of dumping, a continuation or recurrence of countervailable subsidies, and a continuation or recurrence of material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act and 19 CFR 351.218(a), Commerce hereby orders the continuation of the *Orders* on pasta from Italy and Turkey. U.S. Customs and Border Protection will continue to collect AD and CVD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the *Orders* will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, Commerce intends to initiate the next five-year reviews of these orders not later than 30 days prior to the fifth anniversary of the effective date of continuation.

Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO which may be subject to sanctions.

These sunset reviews and notice are in accordance with sections 751(c), 752, and published pursuant to 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: April 11, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2019–07807 Filed 4–16–19; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta from Turkey,* 61 FR 38545 (July 24, 1996) (*Turkey AD Order*); *see also Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy,* 61 FR 38547 (July 24, 1996) (*Italy AD Order*); *Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta from Italy,* 61 FR 38544 (July 24, 1996) (*Italy CVD Order*); *Notice of Countervailing Duty Order: Certain Pasta from Turkey,* 61 FR 38546 (July 24, 1996) (*Turkey CVD Order*) (collectively, the *Orders*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 83 FR 37463 (August 1, 2018) (*Sunset Initiation*).

[3] *See Certain Pasta from Italy and Turkey: Final Results of Expedited Fourth Sunset Reviews of the Antidumping Duty Orders,* 83 FR 62840, (December 6, 2018) and accompanying Issues and Decision Memorandum (*Pasta 2018 AD Sunset Final*); *see also Certain Pasta from Italy: Final Results of the Expedited Fourth Sunset Review of the Countervailing Duty Order,* 83 FR 62838 (December 6, 2018) and accompanying Issues and Decision Memorandum (*Pasta Italy CVD 2018 Sunset Final*); *Certain Pasta from Turkey: Final Results of the Expedited Fourth Sunset Review of the Countervailing Duty Order,* 83 FR 62841 (December 6, 2018) and accompanying Issues and Decision Memorandum (*Pasta Turkey CVD 2018 Sunset Final*).

[4] *Id.*

[5] *See Certain Pasta from Italy and Turkey,* 84 FR 14398 (April 10, 2019).

[6] *See Pasta 2018 AD Sunset Final; see also Pasta Italy CVD 2018 Sunset Final.*

[7] *See Pasta 2018 AD Sunset Final; see also Pasta Turkey CVD 2018 Sunset Final.*

DEPARTMENT OF COMMERCE

International Trade Administration

United States Travel and Tourism Advisory Board; Meeting of the United States Travel and Tourism Advisory Board

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The United States Travel and Tourism Advisory Board (Board or TTAB) will hold a meeting on Monday, April 29, 2019. The Board advises the Secretary of Commerce on matters relating to the U.S. travel and tourism industry. The purpose of the meeting is for Board members to consider recommendations related to travel facilitation and workforce development. The final agenda will be posted on the Department of Commerce website for the Board at *http://trade.gov/ttab* at least one week in advance of the meeting.

DATES: Monday, April 29, 2 p.m.–3 p.m. EDT. The deadline for members of the public to register, including requests to make comments during the meeting and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5 p.m. EDT on Monday, April 22, 2019.

ADDRESSES: The meeting will be held via conference call. The call-in number

and passcode will be provided by email to registrants.

Requests to register (including to speak or for auxiliary aids) and any written comments should be submitted to: National Travel and Tourism Office, U.S. Department of Commerce, 1401 Constitution Ave. NW, Room 10003, Washington, DC 20230 or by email to *TTAB@trade.gov.* Members of the public are encouraged to submit registration requests and written comments via email to ensure timely receipt.

FOR FURTHER INFORMATION CONTACT: Brian Beall, the United States Travel and Tourism Advisory Board, National Travel and Tourism Office, U.S. Department of Commerce, 1401 Constitution Ave. NW, Room 10003, Washington, DC 20230; telephone: 202–482–0140; email: *TTAB@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Board advises the Secretary of Commerce on matters relating to the U.S. travel and tourism industry.

Public Participation: The meeting will be open to the public and will be accessible to people with disabilities. Any member of the public requesting to join the meeting is asked to register in advance by the deadline identified under the **DATES** caption. Requests for auxiliary aids must be submitted by the registration deadline. Last minute requests will be accepted but may not be possible to fill. There will be fifteen (15) minutes allotted for oral comments from members of the public joining the meeting. To accommodate as many speakers as possible, the time for public comments may be limited to three (3) minutes per person. Members of the public wishing to reserve speaking time during the meeting must submit a request at the time of registration, as well as the name and address of the proposed speaker. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers. Speakers are requested to submit a written copy of their prepared remarks by 5 p.m. EDT on Monday, April 22, 2019 for inclusion in the meeting records and for circulation to the members of the Board.

In addition, any member of the public may submit pertinent written comments concerning the Board's affairs at any time before or after the meeting. Comments may be submitted to Brian Beall at the contact information indicated above. To be considered during the meeting, comments must be received no later than 5 p.m. EDT on Monday, April 22, 2019 to ensure transmission to the Board prior to the meeting. Comments received after that date and time will be distributed to the members but may not be considered during the meeting. Copies of Board meeting minutes will be available within 90 days of the meeting.

Brian Beall,

Deputy Director for Policy and Planning, National Travel and Tourism Office, Industry & Analysis, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 2019–07660 Filed 4–16–19; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Intent To Conduct Scoping and To Prepare a DEIS for the Proposed Great Lake Ontario National Marine Sanctuary

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of intent to conduct scoping, hold public scoping meetings, and prepare a draft environmental impact statement and draft management plan for the proposed designation of a national marine sanctuary.

SUMMARY: In accordance with section 304(a) of the National Marine Sanctuaries Act, as amended, (NMSA), and based on the area's qualities and boundaries described in the community-based nomination submitted to NOAA on January 17, 2017 (*https://nominate.noaa.gov/nominations*), NOAA is initiating a process to consider designating a portion of eastern Lake Ontario in New York as a national marine sanctuary. The designation process, as required by the NMSA, will be conducted concurrently with a public process under the National Environmental Policy Act (NEPA). This notice also informs the public that NOAA will coordinate its responsibilities under section 106 of the National Historic Preservation Act (NHPA) with its ongoing NEPA process, including the use of NEPA documents and public meetings to also meet the requirements of section 106. The public scoping process is intended to solicit information and comments on the scope and significance of issues to be addressed in an environmental analysis under NEPA that are related to designating this area as a national marine sanctuary. The results of this scoping process will assist NOAA in moving forward with the designation process and in formulating alternatives for the draft environmental impact statement and proposed regulations, including developing national marine sanctuary boundaries. It will also inform the initiation of any consultations with federal, state, or local agencies, tribes, and other interested parties, as appropriate.

DATES: Comments must be received on or before July 31, 2019. Public scoping meetings will be held as detailed below:

(1) Sterling, NY
Date: June 10, 2019
Location: Fair Haven Fire Hall
Address: 14447 Fair Haven Rd., Sterling, NY 13156
Time: 6:30–8:00 p.m.

(2) Lyons, NY
Date: June 11, 2019
Location: Emergency Operations Center
Address: 7376 Route 31, Lyons, NY 14489
Time: 6:30–8:00 p.m.

(3) Oswego, NY
Date: June 12, 2019
Location: Lake Ontario Conference Center
Address: 26 East 1st St., Oswego, NY 13126
Time: 6:30–8:00 p.m.

(4) Watertown, New York (Jefferson County)
Date: June 13, 2019
Location: Jefferson Community College
Address: 1220 Coffeen St., Jules Center, Room 6–002, Watertown, NY 13601
Time: 6:30–8:00 p.m.

ADDRESSES: Comments may be submitted by any one of the following methods:

• *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov* and search for ''NOAA–NOS–2019–0032'', or go to *http://www.regulations.gov/#!docketDetail;D=NOAA-NOS-2019-0032* and click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NOAA. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (for example, name,

address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the commenter will be publicly accessible. NOAA will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT:

Ellen Brody, Great Lakes Regional Coordinator, 4840 S State Road, Ann Arbor, MI 48108–9719, or call 734–741–2270, or email *ellen.brody@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The NMSA authorizes the Secretary of Commerce (Secretary) to designate and protect as national marine sanctuaries areas of the marine environment that are of special national significance due to their conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or esthetic qualities. Day-to-day management of national marine sanctuaries has been delegated by the Secretary to ONMS. The primary objective of the NMSA is to protect the resources of the sanctuary system.

The area being considered for designation as a national marine sanctuary is a region in eastern Lake Ontario that includes approximately 1,700 square miles of lake waters and bottomlands adjacent to Jefferson, Wayne, Oswego, and Cayuga counties in the State of New York. The area is adjacent to approximately 200 miles of United States shoreline and extends north to the mid-lake international border with Canada. The area features a diverse collection of historic shipwrecks dating back to the 1700s, as well as a historic aircraft.

Eastern Lake Ontario represents a diverse array of important events in our nation's history, including military conflicts, maritime innovation, and American expansion to the west. The eastern corridor is one of the most historically significant regions in the Great Lakes and the country. Lake Ontario has dominated maritime trade and transportation for centuries, beginning with the canoes and boats of early indigenous peoples. During the colonial period, Lake Ontario was a strategic theater of conflict among European powers and the young American republic. Military actions occurred in the region during the French and Indian War, Revolutionary War, and the War of 1812. Later, this region was critical to the development of the American West and the nation's industrial core.

Vessels that historically plied Lake Ontario's waters often met with treacherous conditions, which resulted in numerous shipwrecks. The lake's cold, fresh water has preserved these wrecks, making these ''submerged museums'' ripe for protection, study, and interpretation. The area contains 21 known shipwrecks, 47 additional reported vessel losses, several reported aircraft losses, numerous other historic maritime-related features, and is adjacent to communities that have embraced their centuries-long relationship with Lake Ontario. The collection also includes HMS *Ontario,* the oldest confirmed shipwreck and the only fully intact British warship to have ever been found in the Great Lakes; at least one submerged shipwreck that has been listed, and several evaluated for listing, on the National Register of Historic Places; and a 19th Century Great Lakes cargo vessel that is recognized as the only New York State Submerged Cultural Preserve and Dive Site in Lake Ontario and Lake Erie.

II. Need for Action

On January 17, 2017, Governor Andrew Cuomo, acting on behalf of the State of New York and the Counties of Jefferson, Wayne, Cayuga, and Oswego submitted a nomination to NOAA through the Sanctuary Nomination Process (SNP) (79 FR 33851), asking NOAA to consider designating an area in eastern Lake Ontario waters as a national marine sanctuary. The nomination asks NOAA to supplement and complement work by the State of New York to enhance protection of this collection of nationally significant shipwrecks and other underwater cultural resources (*e.g.,* aircraft, inundated prehistoric sites) in the face of evolving and expanding human use. The nomination also identifies opportunities for NOAA to expand upon existing local, county, and state efforts to study, interpret, and manage the area's unique submerged cultural resources. The nomination does not propose that the sanctuary regulate fishing, water quality, or other natural resource attributes of the area.

NOAA is initiating the process to designate this area as a national marine sanctuary based on the information included in the nomination. NOAA's review of the nomination against the criteria and considerations of the SNP indicated strong merit in proposing this area as a national marine sanctuary to protect cultural resources. The nomination was endorsed by a diverse coalition of organizations and individuals at local, state, regional, and national levels including elected officials, businesses, a federally recognized tribe, recreational users, conservation groups, fishing associations, tourism companies, museums, historical societies, and education groups. NOAA completed its review of the nomination on March 21, 2017 and added the area to the inventory of nominations that are eligible for designation. NOAA encourages the public to review the full nomination at *https://nominate.noaa.gov/nominations/.*

NOAA's goal in considering the designation is to protect, research, interpret, and improve public access to shipwrecks and other maritime heritage resources. Designation under the NMSA would allow NOAA to complement the State of New York's efforts to preserve this collection of nationally significant historic shipwrecks and other underwater cultural resources. Through a research and monitoring program, NOAA could use its assets to further locate, document, and monitor these significant cultural resources. Establishing a national marine sanctuary in eastern Lake Ontario could also expand education and outreach to interpret sanctuary resources for the public, as well as promote the responsible use of sanctuary resources. Furthermore, a sanctuary has the potential to increase tourism and economic opportunities in local coastal communities.

III. Process

The process for designating the Lake Ontario area as a national marine sanctuary includes the following stages:

1. Public Scoping Process—Information collection and characterization, including the consideration of public comments received during scoping;
2. Preparation of documents—Preparation and release of draft designation documents, including: A draft environmental impact statement (DEIS), prepared pursuant to the National Environmental Policy Act (NEPA), that identifies boundary alternatives; a draft management plan (DMP); and a notice of proposed rulemaking (NPRM) to define proposed sanctuary regulations. Draft documents would be used to initiate consultations with federal, state, or local agencies, tribes and other interested parties, as appropriate;
3. Public review and comment on the DEIS, DMP, and NPRM;
4. Preparation and release of a final environmental impact statement, final management plan, including a response to public comments, with a final rule and regulations, if appropriate.
5. The designation and regulations shall take effect after the end of a review

period of forty-five days of a continuous session of Congress. During this same period, the Governor of the state in whose waters the sanctuary is partially or entirely located has the opportunity to concurrently review the designation.

With this notice, NOAA is initiating a public scoping process to gather information from individuals, organizations, and government agencies on the designation of the Great Lake Ontario area as a national marine sanctuary based on the community-based nomination of January 2017, especially:

(a) The spatial extent of the proposed sanctuary;

(b) the location, nature, and value of the resources that would be protected by a sanctuary;

(c) the management plan framework most appropriate to the resources in the area;

(d) the potential socioeconomic, cultural, and biological impacts of designation;

(e) threats to underwater cultural resources within the proposed sanctuary; and

(f) potential names for the new sanctuary.

IV. Consultation Under Section 106 of the National Historic Preservation Act

This notice confirms that NOAA will fulfill its responsibility under section 106 of the National Historic Preservation Act (NHPA) through the ongoing NEPA process, pursuant to 36 CFR 800.8(a) including the use of NEPA documents and public and stakeholder meetings to meet the section 106 requirements. The NHPA specifically applies to any agency undertaking that may affect historic properties. Pursuant to 36 CFR 800.16(1)(1), historic properties includes: ''any prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. The term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria.''

In fulfilling its responsibility under the NHPA and NEPA, NOAA intends to identify consulting parties; identify historic properties and assess the effects of the undertaking on such properties; initiate formal consultation with the State Historic Preservation Officer, the Advisory Council of Historic Preservation, federally-recognized tribes, and other consulting parties; involve the public in accordance with NOAA's NEPA procedures, and develop in consultation with identified consulting parties alternatives and proposed measures that might avoid, minimize or mitigate any adverse effects on historic properties and describe them in any environmental assessment or draft environmental impact statement.

Authority: 16 U.S.C. 1431 *et seq.*

Dated: April 12, 2019.

John Armor,

Director, Office of National Marine Sanctuaries.

[FR Doc. 2019–07678 Filed 4–16–19; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Submission for OMB Review; Comment Request; Patents External Quality Survey

The United States Patent and Trademark Office (USPTO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: United States Patent and Trademark Office (USPTO).

Title: Patents External Quality Survey.

OMB Control Number: 0651–0057.

Form Number(s):

- No forms associated.

Type of Request: Regular collection renewal.

Number of Respondents: 2,500.

Average Minutes per Response: USPTO estimates that it will take the public 10 minutes (.17 hours) to gather the necessary information, prepare, and submit the requirements in this collection.

Burden Hours: 416.67.

Cost Burden: $0.

Needs and Uses: Individuals who work at firms that file more than six patent applications a year use the Patents External Quality Survey to provide the USPTO with their perceptions of examination quality. The USPTO uses the feedback gathered from the survey to assist them in targeting key areas for examination quality improvement and to identify important areas for examiner training.

Affected Public: Individuals or households; businesses or other for-profits; and not-for-profit institutions.

Frequency: Semi-annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Nicholas A. Fraser, email: *Nicholas_A._Fraser@omb.eop.gov.*

Once submitted, the request will be publicly available in electronic format through *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Further information can be obtained by:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0057 copy request'' in the subject line of the message.
- *Mail:* Marcie Lovett, Chief, Records and Information Governance Branch, Office of the Chief Adminstrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before May 17, 2019 to Nicholas A. Fraser, OMB Desk Officer, via email to *Nicholas_A._Fraser@omb.eop.gov,* or by fax to 202–395–5167, marked to the attention of Nicholas A. Fraser.

Marcie Lovett,

Chief, Records and Information Governance Branch, Office of the Chief Administrative Officer, USPTO.

[FR Doc. 2019–07642 Filed 4–16–19; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., Tuesday, April 23, 2019.

PLACE: CFTC Headquarters, Lobby-Level Hearing Room, Three Lafayette Centre, 1155 21st Street NW, Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') will hold this meeting to consider the following matters:

- Notice of Proposed Rulemaking Regarding Amendments to Commission Regulations on Certain Swap Data Repository and Swap Data Reporting Requirements;
- Notice of Proposed Rulemaking Regarding Amendments to Derivatives Clearing Organization General Provisions and Core Principles;
- Comparability Determination for the United Kingdom: Certain Requirements Applicable to Swap Dealers and Major Swap Participants under U.K. Law following a No-Deal Brexit;
- Final Rule Amending Commission Regulations to Conform to FAST Act

Provisions on Privacy of Consumer Financial Information; and

• Certification of the NIFTY 50 Index Futures Contract Listed on the NSE IFSC Limited to be Offered and Sold to Persons Located in the United States.

The agenda for this meeting will be available to the public and posted on the Commission's website at *https://www.cftc.gov.* In the event that the time, date, or place of this meeting changes, an announcement of the change, along with the new time, date, or place of the meeting, will be posted on the Commission's website.

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, Secretary of the Commission, 202–418–5964.

Dated: April 12, 2019.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2019–07738 Filed 4–15–19; 11:15 am]

BILLING CODE 6351–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2019–ICCD–0012]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; National Center for College Students With Disabilities (NCCSD) Database of Disability Services and Activities in Higher Education

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before May 17, 2019.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2019–ICCD–0012. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Shedita Alston, 202–453–7090.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: National Center for College Students with Disabilities (NCCSD) Database of Disability Services and Activities in Higher Education.

OMB Control Number: 1840–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 4,583.

Total Estimated Number of Annual Burden Hours: 13,749.

Abstract: The National Center for College Students with Disabilities (NCCSD) at the Association on Higher Education and Disability (AHEAD) is authorized by Congress in the Higher Education Opportunity Act of 2008 (§ 777.4) and was established in 2016. The NCCSD College Disability Resource Database is designed to address a gap in information about services and accessibility for college students with disabilities, who make up 11% of the undergraduate population. Existing general information about colleges is available in the Department of Education's online College Navigator and College Affordability and Transparency Center, but the only information about students with disabilities in these databases is the percentage of students registered with campus disability services offices. At this time, there are no national or federal surveys or databases that provide systematic collection of information about campus-level disability-related services, access, and activities at colleges and universities in the United States. The NCCSD survey will ask all U.S. campuses to provide basic information about disability services, accessibility of campus, and disability-related activities that may affect inclusion and the campus climate. The data will be available to the public in an accessible and searchable database, to help prospective college students and their families make informed decisions during the college search process. Because the database will be public, researchers and policymakers will also be able to utilize the data to gather information about disability and higher education in systematic ways.

Dated: April 12, 2019.

Kate Mullan,

PRA Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–07670 Filed 4–16–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG19–90–000.

Applicants: Mesteno Windpower, LLC.

Description: Self-Certification of Exempt Wholesale Generator Status of Mesteno Windpower, LLC.

Filed Date: 4/11/19.

Accession Number: 20190411–5049.
Comments Due: 5 p.m. ET 5/2/19.

Docket Numbers: EG19–91–000.
Applicants: Kawailoa Solar, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 4/11/19.
Accession Number: 20190411–5108.
Comments Due: 5 p.m. ET 5/2/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2437–012.
Applicants: Arizona Public Service Company.
Description: Additional Supplement to December 28, 2018 Triennial Market Power Update of Arizona Public Service Company.
Filed Date: 4/11/19.
Accession Number: 20190411–5113.
Comments Due: 5 p.m. ET 5/2/19.

Docket Numbers: ER19–610–000.
Applicants: Marengo Battery Storage, LLC.
Description: Second Supplement to December 20, 2018 Marengo Battery Storage, LLC tariff filing.
Filed Date: 4/10/19.
Accession Number: 20190410–5246.
Comments Due: 5 p.m. ET 4/17/19.

Docket Numbers: ER19–871–000.
Applicants: Southwestern Electric Power Company.
Description: Report Filing: SWEPCO–ETEC Contracting Services Agrs. Refund Report to be effective N/A.
Filed Date: 4/11/19.
Accession Number: 20190411–5123.
Comments Due: 5 p.m. ET 5/2/19.

Docket Numbers: ER19–1548–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: E&P Agreement for EDPR CA Solar Park to be effective 4/11/2019.
Filed Date: 4/10/19.
Accession Number: 20190410–5161.
Comments Due: 5 p.m. ET 5/1/19.

Docket Numbers: ER19–1549–000.
Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.
Description: § 205(d) Rate Filing: 2019–04–10_SA 2880 Att A-Project Specifications No. 3 WVPA-EnerStar-Ferrell to be effective 3/18/2019.
Filed Date: 4/10/19.
Accession Number: 20190410–5177.
Comments Due: 5 p.m. ET 5/1/19.

Docket Numbers: ER19–1550–000.
Applicants: New England Power Pool Participants Committee, ISO New England Inc.
Description: § 205(d) Rate Filing: Lotus Danbury One Termination to be effective 6/10/2019.
Filed Date: 4/10/19.
Accession Number: 20190410–5200.
Comments Due: 5 p.m. ET 5/1/19.

Docket Numbers: ER19–1551–000.
Applicants: Old Dominion Electric Cooperative.
Description: § 205(d) Rate Filing: Superseding Cost-of-Service Rate Schedule to be effective 6/10/2019.
Filed Date: 4/10/19.
Accession Number: 20190410–5201.
Comments Due: 5 p.m. ET 5/1/19.

Docket Numbers: ER19–1552–000.
Applicants: Pacific Gas and Electric Company.
Description: Notice of Termination of Small Generator Interconnection Agreement (No. 404) of Pacific Gas and Electric Company.
Filed Date: 4/10/19.
Accession Number: 20190410–5204.
Comments Due: 5 p.m. ET 5/1/19.

Docket Numbers: ER19–1553–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: SCE Transmission Owner Tariff Formula Rate Filing (TO2019A) to be effective 6/12/2019.
Filed Date: 4/11/19.
Accession Number: 20190411–5001.
Comments Due: 5 p.m. ET 5/2/19.

Docket Numbers: ER19–1554–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3548 Rolling Thunder I Power Partners GIA to be effective 4/4/2019.
Filed Date: 4/11/19.
Accession Number: 20190411–5021.
Comments Due: 5 p.m. ET 5/2/19.

Docket Numbers: ER19–1555–000.
Applicants: Mt. Tom Generating Company, LLC.
Description: Tariff Cancellation: Notice of Cancellation of FERC Electric Tariff, Volume No. 1 to be effective 4/12/2019.
Filed Date: 4/11/19.
Accession Number: 20190411–5037.
Comments Due: 5 p.m. ET 5/2/19.

Docket Numbers: ER19–1556–000.
Applicants: Arizona Public Service Company.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revision to be effective 6/11/2019.
Filed Date: 4/11/19.
Accession Number: 20190411–5060.
Comments Due: 5 p.m. ET 5/2/19.

Docket Numbers: ER19–1557–000.
Applicants: NorthWestern Corporation.
Description: Tariff Cancellation: Cancellation of LGIA with Rolling Thunder I Power Partners LLC, SA 30–SD to be effective 4/4/2019.
Filed Date: 4/11/19.
Accession Number: 20190411–5061.
Comments Due: 5 p.m. ET 5/2/19.

Docket Numbers: ER19–1558–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2019–04–11_SA 3291 Duke Energy-Roaming Bison Renewables GIA (J754) to be effective 3/28/2019.
Filed Date: 4/11/19.
Accession Number: 20190411–5081.
Comments Due: 5 p.m. ET 5/2/19.

Docket Numbers: ER19–1559–000.
Applicants: AEP Texas Inc.
Description: § 205(d) Rate Filing: AEPTX-Sharyland Utilities IA Second Amend & Restated to be effective 3/27/2019.
Filed Date: 4/11/19.
Accession Number: 20190411–5104.
Comments Due: 5 p.m. ET 5/2/19.

Docket Numbers: ER19–1560–000.
Applicants: AEP Texas Inc.
Description: § 205(d) Rate Filing: TNC-Sharyland Utilities Interconnection Agreement to be effective 3/27/2019.
Filed Date: 4/11/19.
Accession Number: 20190411–5110.
Comments Due: 5 p.m. ET 5/2/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 11, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–07717 Filed 4–16–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meetings

The following notice of meeting is published pursuant to section 3(a) of the

government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: April 18, 2019 10:00 a.m.

PLACE: Room 2C, 888 First Street NE, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*** NOTE** —Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502–8400.

For a recorded message listing items struck from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed on line at the Commission's website at *http://ferc.capitolconnection.org/* using the eLibrary link, or may be examined in the Commission's Public Reference Room.

1054TH—MEETING

[Open meeting; April 18, 2019; 10:00 a.m.]

Item No.	Docket No.	Company
	ADMINISTRATIVE	
A–1	AD19–1–000	Agency Administrative Matters.
A–2	AD19–2–000	Customer Matters, Reliability, Security and Market Operations.
A–3	AD19–11–000	State of the Markets 2018 Report.
	ELECTRIC	
E–1	EL19–11–000	American Wind Energy Association and The Wind Coalition v. Southwest Power Pool, Inc.
E–2	EL18–33–000	New York Independent System Operator, Inc.
E–3	EL18–34–000	PJM Interconnection, L.L.C.
E–4	Omitted	
E–5	RM18–20–000	Critical Infrastructure Protection Reliability Standard CIP–012–1—Cyber Security—Communications between Control Centers.
E–6	ER17–1357–002	Duke Energy Carolinas, LLC and Duke Energy Progress, LLC.
E–7	ER17–1568–002, ER17–1568–003, ER18–1854–001, ER18–2030–001, ER18–2058–001, ER19–261–001.	Southwest Power Pool, Inc.
E–8	ER19–1112–000	Flat Ridge 2 Wind Energy LLC Fowler Ridge II Wind Farm LLC Southwestern Electric Power Company Indiana Michigan Power Company Ohio Power Company.
E–9	ES19–15–000	El Paso Electric Company.
E–10	ES19–14–000	South Carolina Electric & Gas Company South Carolina Generating Company, Inc.
E–11	EL19–42–000	City Utilities of Springfield, Missouri.
E–12	EL18–205–000	Sunrun, Inc.
	GAS	
G–1	RM18–11–001, RP18–415–001	Interstate and Intrastate Natural Gas Pipelines; Rate Changes Relating to Federal Income Tax Rate American Forest & Paper Association.
G–2	RP15–23–000	Transwestern Pipeline Company, LLC.
G–3	RP19–810–000	Tallgrass Interstate Gas Transmission, LLC.
	RP19–811–000	Trailblazer Pipeline Company LLC.
	RP19–812–000	Rockies Express Pipeline LLC.
G–4	IS18–228–002	Buckeye Pipe Line Company, L.P.
G–5	RP18–1038–003	Northern Border Pipeline Company.
G–6	OR18–15–001	Andeavor Field Services, LLC v. Mid-America Pipeline Company, LLC and Enterprise Products Operating LLC.
	HYDRO	
H–1	RM19–6–000	Hydroelectric Licensing Regulations Under the America's Water Infrastructure Act of 2018.
H–2	P–2897–048, P–2932–047, P–2941–043, P–2931–042, P–2942–051.	Sappi North America, Inc.
H–3	P–14655–001	Cat Creek Energy, LLC.
H–4	P–2107–021	Pacific Gas and Electric Company.
H–5	P–6461–027	City of Port Angeles, Washington.
H–6	P–2079–080	Placer County Water Agency.
	CERTIFICATES	
C–1	CP17–219–001	Southern Star Central Gas Pipeline, Inc.
C–2	CP17–117–000	Driftwood LNG LLC.
	CP17–118–000	Driftwood Pipeline LLC.
C–3	CP17–20–000	Port Arthur LNG, LLC and PALNG Common Facilities Company, LLC.
	CP17–21–000, CP17–21–001, CP18–7–000	Port Authur Pipeline, LLC.

1054TH—MEETING—Continued

[Open meeting; April 18, 2019; 10:00 a.m.]

Item No.	Docket No.	Company
C–4	Omitted	

Issued: April 11, 2019.

Kimberly D. Bose,

Secretary.

A free webcast of this event is available through *http://ferc.capitolconnection.org/.* Anyone with internet access who desires to view this event can do so by navigating to *www.ferc.gov's* Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the free webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *http://ferc.capitolconnection.org/* or contact Shirley Al-Jarani at 703–993–3104.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

[FR Doc. 2019–07742 Filed 4–15–19; 11:15 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:

Filings Instituting Proceedings

Docket Numbers: CP18–6–001.
Applicants: RH energytrans, LLC.
Description: Abbreviated Application for Limited Amendment of Certificate of Public Convenience and Necessity.
Filed Date: 4/10/19.
Accession Number: 20190410–5162.
Comments Due: 5 p.m. ET 5/1/19.

Docket Numbers: RP19–1117–000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Non-Conforming Negotiated Rate (DCP 33761 ISD Apr 19) to be effective 4/12/2019.
Filed Date: 4/10/19.
Accession Number: 20190410–5015.
Comments Due: 5 p.m. ET 4/22/19.

Docket Numbers: RP19–1118–000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Non-Conforming Agreements Update Filing (BHSC) to be effective 4/1/2019.
Filed Date: 4/10/19.
Accession Number: 20190410–5040.
Comments Due: 5 p.m. ET 4/22/19.

Docket Numbers: RP19–1119–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rate—Amended EAP Ohio 911572 eff 4–9–19 to be effective 4/9/2019.
Filed Date: 4/10/19.
Accession Number: 20190410–5046.
Comments Due: 5 p.m. ET 4/22/19.

Docket Numbers: RP19–1120–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Non-Conforming Negotiated Rate Agreement Update Filing (Conoco Apr 19 Redes) to be effective 4/11/2019.
Filed Date: 4/10/19.
Accession Number: 20190410–5068.
Comments Due: 5 p.m. ET 4/22/19.

Docket Numbers: RP19–1121–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 041519 Negotiated Rates—Mercuria Energy America, Inc. R–7540–18 to be effective 4/15/2019.
Filed Date: 4/10/19.
Accession Number: 20190410–5125.
Comments Due: 5 p.m. ET 4/22/19.

Docket Numbers: RP19–769–001.
Applicants: ANR Pipeline Company.
Description: Compliance filing Compliance to RP19–769–000 to be effective 4/1/2019.
Filed Date: 4/10/19.
Accession Number: 20190410–5018.
Comments Due: 5 p.m. ET 4/22/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 11, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–07720 Filed 4–16–19; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9992–30–Region 3]

Clean Water Act: West Virginia's NPDES Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of approval.

SUMMARY: The State of West Virginia has submitted revisions to its authorized National Pollutant Discharge Elimination System (NPDES) program for the U.S. Environmental Protection Agency's (EPA) review. These revisions consist of amendments to the West Virginia Water Pollution Control Act and to West Virginia's Code of State Regulations. The EPA reviewed and responded to the comments received during the public comments request published in the **Federal Register** dated on September 17, 2018. For the reasons set forth in the administrative record, EPA announces the approval of these revisions because West Virginia's NPDES program addressed by the revisions remains consistent with the applicable requirements in the Clean Water Act.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Francisco Cruz at (215) 814–5734 or *cruz.francisco@epa.gov.*

SUPPLEMENTARY INFORMATION: Title 40 CFR 123.62(b)(3) states that the EPA will approve or disapprove program

revisions on the requirements of this part. Furthermore, title 40 CFR 123.62(b)(4) indicates that a program revision shall become effective upon the approval of the EPA. These revisions are effective on March 27, 2019.

Dated: April 3, 2019.

Catherine A. Libertz,

Director, Water Protection Division, U. S. Environmental Protection Agency, Region 3.

[FR Doc. 2019–07566 Filed 4–16–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2018–0604; FRL–9990–36]

Materials Supporting the Colour Index (C. I.) Pigment Violet 29 Risk Evaluation; Notice of Availability and Comment Opportunity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing the availability of updated systematic review supplemental files with data evaluation scoring sheets, as supporting documents for the draft risk evaluation for Colour Index (C. I.) Pigment Violet 29 (PV29) under the Toxic Substances Control Act (TSCA). EPA has already made 24 full study reports on PV29 available to the public, in some instances with information withheld as confidential business information (CBI) pursuant to EPA regulations. EPA is seeking public comment on the draft risk evaluation for PV29 in light of the additional materials already made or being made publicly available. These materials have been considered in the risk evaluation process of PV29, and EPA has also submitted these materials to the TSCA Science Advisory Committee on Chemicals (SACC). Comments submitted will be considered by the agency and also provided to the TSCA SACC peer review panel, which will have the opportunity to consider the comments during its discussions.

DATES: Comments must be received on or before April 17, 2019.

ADDRESSES: Submit your comments, identified by Docket Identification (ID) Number EPA–HQ–OPPT–2018–0604, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Stanley Barone Jr., Office of Pollution Prevention and Toxics (7403M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–1169; email address: *barone.stan@epa.gov.*

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

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

This action is directed to the public in general. This action may be of interest to persons who are interested in risk evaluations of existing chemical substances under the Toxic Substances Control Act (TSCA) in general, and PV29 in particular. Since other persons may also be interested in this, the Agency has not attempted to describe all that may be interested in this action.

II. What action is the agency taking?

EPA is announcing the availability of updated systematic review supplemental file with data evaluation scoring sheets which are available in Docket ID No. EPA–HQ–OPPT–2018–0604 at *http://www.regulations.gov.* EPA is seeking public comment on the draft risk evaluation for PV29 in light of the additional materials being made publicly available. These materials have been considered in the risk evaluation process of PV29 and all comments received in response to this solicitation will be provided to the TSCA SACC for consideration during their peer review.

III. What should I consider as I prepare my comments for EPA?

A. Submitting CBI

Do not submit CBI information to EPA through *regulations.gov* or via email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

B. Tips for Preparing Your Comments

When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

Authority: 15 U.S.C. 2601 *et seq.*

Dated: April 11, 2019.

Alexandra Dapolito Dunn,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2019–07708 Filed 4–16–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0534; FRL–9991–88–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Surface Coating of Plastic Parts for Business Machines (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NSPS for Surface Coating of Plastic Parts for Business Machines (EPA ICR Number 1093.12, OMB Control Number 2060–0162), 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 April 30, 2019. Public comments were previously requested, via the **Federal Register**, on May 30, 2018 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 May 17, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0534, 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.

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 Surface Coating of Plastic Parts for Business Machines (40 CFR part 60 subpart TTT) were proposed on January 8, 1986, promulgated on January 29, 1988, and amended on October 17, 2000. These regulations apply to new facilities that perform industrial surface coating operations on plastic parts for use in the manufacture of business machines: Each spray booth that applies prime coats, color coats, texture coats or touch-up coats. New facilities include those that commenced construction, modification, or reconstruction after the date of proposal. This information is being collected to assure compliance with 40 CFR part 60, subpart TTT.

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: Facilities that perform industrial surface coating on plastic parts for business machines.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart TTT).

Estimated number of respondents: 10 (total).

Frequency of response: Initially, quarterly and semiannually.

Total estimated burden: 992 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $113,000 (per year), which includes $0 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is no change in the labor hours in this ICR compared to the previous ICR. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–07675 Filed 4–16–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0535; FRL–9991–54–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Secondary Lead Smelters (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), NSPS for Secondary Lead Smelters (EPA ICR Number 1128.12, OMB Control Number 2060–0080), 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 April 30, 2019. Public comments were previously requested, via the **Federal Register**, on May 30, 2018 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 May 17, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0535, 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.

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 Secondary Lead Smelters (40 CFR part 60, subpart L) apply to existing facilities and new secondary lead smelting facilities: Any pot furnace of more than 250 kg (550 lb) charging capacity, blast (cupola) furnaces, and reverberatory furnaces. The affected facilities include any facility producing lead from a lead bearing scrap material by smelting to the metallic form. Blast furnace means any furnace used to recover metal from slag. Reverberatory furnaces include furnaces of various types, *e.g.,* stationary, rotating, rocking and tilting. New facilities include those that commenced construction, modification, or reconstruction after the date of proposal. This information is being collected to assure compliance with 40 CFR part 60, subpart L.

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: Secondary lead smelting facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart L).

Estimated number of respondents: 12 (total).

Frequency of response: Initially.

Total estimated burden: 32 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $3,620 (per year), which includes $0 annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: The adjustment decrease in burden from the most recently-approved ICR is due to a decrease in the number of sources. There is a decrease in the number of estimated sources from 14 to 12 due to consolidation within the sector. The reduced number of estimated sources also led to a decrease in the number of responses.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–07673 Filed 4–16–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0528; FRL–9991–66–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Synthetic Fiber Production Facilities (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), NSPS for Synthetic Fiber Production Facilities (EPA ICR Number 1156.14, OMB Control Number 2060–0059), 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 April 30, 2019. Public comments were previously requested, via the **Federal Register**, on May 30, 2018 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 May 17, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0528, 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.

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 Synthetic Fiber Production Facilities (40 CFR part 60, subpart HHH) were proposed on November 23, 1982, promulgated on April 5, 1984, and amended on October 17, 2000. These regulations apply to both existing and new synthetic fiber production plants with a solvent-spun, synthetic fiber process that produce more than 500 megagrams (Mgs) of fiber per year that commenced construction or reconstruction after the date of proposal. The provisions of this subpart do not apply to any facility that uses the reaction spinning process to produce spandex fiber, or the viscose process to produce rayon fiber, or to facilities that commence modification, but not reconstruction, after the date of proposal. This information is being collected to assure compliance with 40 CFR part 60, subpart HHH.

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: Synthetic fiber production plants with a solvent-spun, synthetic fiber process that produce more than 500 megagrams (Mgs) of fiber per year.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart HHH).

Estimated number of respondents: 22 (total).

Frequency of response: Initially, semiannually, and quarterly.

Total estimated burden: 1,880 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $380,000 (per year), which includes $165,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is no change in burden for this ICR compared to the previous ICR. This situation is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–07674 Filed 4–16–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202)-523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012470–002.

Agreement Name: COSCO SHIPPING/PIL Slot Exchange Agreement—PNW.

Parties: COSCO Shipping Co., Ltd. and Pacific International Lines (PTE) Ltd.

Filing Party: Eric Jeffrey; Nixon Peabody.

Synopsis: The amendment deletes one of two previous slot exchanges, updates the other slot exchange and changes the name of the Agreement accordingly.

Proposed Effective Date: 4/9/2019.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/1964.

Dated: April 12, 2019.

Rachel Dickon,

Secretary.

[FR Doc. 2019–07721 Filed 4–16–19; 8:45 am]

BILLING CODE 6731–AA–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, without revision, the Senior Credit Officer Opinion Survey on Dealer Financing Terms (FR 2034; OMB No. 7100–0325).

DATES: Comments must be submitted on or before June 17, 2019.

ADDRESSES: You may submit comments, identified by *FR 2034,* by any of the following methods:

- *Agency Website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street NW (between 18th and 19th Streets NW), Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments. Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance,

and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection

Report title: Senior Credit Officer Opinion Survey on Dealer Financing Terms.

Agency form number: FR 2034.

OMB control number: 7100–0325.

Frequency: Quarterly.

Respondents: U.S. financial institutions and U.S. branches and agencies of foreign banks.

Estimated number of respondents: 25.

Estimated average hours per response: 5.

Estimated annual burden hours: 500.

General description of report: This survey collects qualitative and limited quantitative information from senior credit officers at responding financial institutions on (1) stringency of credit terms, (2) credit availability and demand across the entire range of securities financing and over-the-counter derivatives transactions, and (3) the evolution of market conditions and conventions applicable to such activities. Given the Board's interest in financial stability, the information this survey collects is critical to the monitoring of credit markets and capital market activity. Information from the survey is also considered by the Federal Open Market Committee (FOMC) as it sets monetary policy. Aggregate survey results are made available to the public on the Board's website.[1] In addition, selected aggregate survey results may be discussed in Governors' speeches and may be published in *Federal Reserve Bulletin* articles and in the semi-annual Monetary Policy Report to the Congress.

Legal authorization and confidentiality: The FR 2034 is authorized pursuant to sections 2A and 12A of the Federal Reserve Act (''FRA''). Section 2A of the FRA requires that the Board and the FOMC maintain long-run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates (12 U.S.C. 225a). Under section 12A of the FRA, the FOMC is required to implement regulations relating to the open market operations conducted by Federal Reserve Banks. Those transactions must be governed with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country (12 U.S.C. 263). The Board and the FOMC use the information obtained from the FR 2034 to help fulfill these obligations. The FR 2034 is voluntary. Information collected on the FR 2034 is granted confidential treatment under exemption (b)(4) of the Freedom of Information Act, 5 U.S.C. 552(b)(4), which protects from disclosure ''trade secrets and commercial or financial information obtained from a person and privileged or confidential.''

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

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019–07663 Filed 4–16–19; 8:45 am]

BILLING CODE 6210–01–P

[1] See *www.federalreserve.gov/econresdata/releases/scoos.htm.*

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, without revision, the Semiannual Report of Derivatives Activity (FR 2436; OMB No. 7100–0286).

DATES: Comments must be submitted on or before June 17, 2019.

ADDRESSES: You may submit comments, identified by *FR 2436,* by any of the following methods:

- *Agency Website: °://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available on the Board's website at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper 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 proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection:

Report title: Semiannual Report of Derivatives Activity.

Agency form number: FR 2436.

OMB control number: 7100–0286.

Frequency: Semiannually.

Respondents: U.S. dealers of over-the-counter (OTC) derivatives.

Estimated number of respondents: 8.

Estimated average hours per response: 236.

Estimated annual burden hours: 3,776.

General description of report: The Semiannual Report of Derivatives Activity collects derivatives market statistics from the eight largest U.S. dealers of OTC derivatives. Data are collected on the notional amounts and gross fair values of the volumes outstanding of broad categories of foreign exchange, interest rate, equity, commodity-linked, and credit default swap OTC derivatives contracts across a range of underlying currencies, interest rates, and equity markets.

This collection of information complements the triennial Central Bank Survey of Foreign Exchange and Derivatives Market Activity (FR 3036; OMB No. 7100–0285). The FR 2436 collects similar data on the outstanding volume of derivatives, but not on derivatives turnover. The Board conducts both surveys in coordination with other central banks. The aggregated U.S. data is compiled and forwarded to the Bank for International Settlements (BIS), which publishes global market statistics that are aggregates of national data.

Legal authorization and confidentiality: This report is authorized under sections 2A and 12A of the Federal Reserve Act (FRA). Section 2A of the FRA requires the Federal Reserve Board and the Federal Open Market Committee (FOMC) to maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates (12 U.S.C. 225a). Section 12A of the FRA requires the FOMC to implement regulations relating to the open market operations conducted by Federal Reserve Banks with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country (12 U.S.C. 263). Because the Federal Reserve System uses the information obtained from the FR 2436 to fulfill these obligations, these statutory provisions provide the legal authorization for the collection of information on the FR 2436.

The FR 2436 is voluntary. Because the release of this information would cause substantial harm to the competitive position of the entity from whom the information was obtained, the information collected on the FR 2436 may be granted confidential treatment under exemption (b)(4) of the Freedom of Information Act (5 U.S.C. 552(b)(4)), which protects from disclosure ''trade secrets and commercial or financial information obtained from a person and privileged or confidential.''

Board of Governors of the Federal Reserve System, April 11, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019–07650 Filed 4–16–19; 8:45 am]

BILLING CODE 6210–01–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 (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 notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 2, 2019.

A. Federal Reserve Bank of Minneapolis (Mark A. Rauzi, Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Terence Fennessy, Clancy, Montana, individually and as trustee of the First National Bancorp, Inc. Employee Stock Ownership Plan, Missoula, Montana (''ESOP'');* to retain voting shares of First National Bancorp, Inc., Missoula, Montana (''FNBI''), and thereby retain shares of First Montana Bank, Inc., Missoula, Montana. Additionally, ESOP and its trustees Terence Fennessy, Clancy, Montana; and Noel Kulbeck, Missoula, Montana, as a group acting in concert, to retain voting shares of FNBI. Terence Fennessy (including IRA and control of ESOP shares); Terence Fennessy IRA, Clancy, Montana. Geraldine Fennessy, Libby, Montana; Tiina Fennessy, Clancy, Montana; Tiina Fennessy IRA, Clancy, Montana; Thomas Fennessy, Libby, Montana; Timothy Fennessy, Spokane, Washington; Teresa Kriskovich, Tracey, California; and Treva Marsden, Mead, Washington; as members of the Fennessy family shareholder group acting in concert; to retain voting shares of FNBI.

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

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–07684 Filed 4–16–19; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank

holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 13, 2019.

A. Federal Reserve Bank of Minneapolis (Mark A. Rauzi, Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Walsh Financial, Inc., Minneapolis, Minnesota;* to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Buhl, Mountain, Minnesota.

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

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–07685 Filed 4–16–19; 8:45 am]

BILLING CODE

FEDERAL TRADE COMMISSION

[File No. 171 0058]

Tronox/Cristal USA; Analysis of Agreement Containing Consent Orders To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis of Agreement Containing Consent Orders to Aid Public Comment describes both the allegations in the complaint and the terms of the consent orders—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 17, 2019.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''Tronox/Cristal USA'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Joonsuk Lee (202–326–2823), Bureau of Competition, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis of Agreement Containing Consent Orders to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page for April 10, 2019, on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before May 17, 2019. Write ''Tronox/Cristal USA; File No. 1710085'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''Tronox/Cristal USA; File No. 1710085'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC website at *https://www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the

requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before May 17, 2019. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Orders (''Consent Agreement'') with Tronox Limited (''Tronox''), National Industrialization Company (''TASNEE''), National Titanium Dioxide Company Limited (''Cristal''), and Cristal USA Inc. The purpose of the Consent Agreement is to remedy the anticompetitive effects that would result from Tronox's proposed acquisition of Cristal's titanium dioxide (''TiO2'') business.

On February 21, 2017, Tronox announced that it had entered into a definitive agreement to acquire all of Cristal's TiO2 business for $1.67 billion and a 24 percent stake in the combined entity (''Acquisition''). The proposed Acquisition would combine two of the three largest producers of TiO2 manufactured through the chloride process (''chloride TiO2'') in the United States and Canada (''North America''). On December 5, 2017, the Commission issued an administrative Complaint challenging the proposed Acquisition and authorized staff to seek, if necessary, a preliminary injunction in federal district court. The Commission's Complaint alleged that the proposed Acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. 45, by substantially lessening competition in the market for the sale of chloride TiO2 to North American customers (''North American chloride TiO2 market''). After extensive pre-trial discovery, the administrative trial before the Administrative Law Judge (''ALJ'') began on May 18, 2018 and was conducted over sixteen hearing days until June 22, 2018.

In July 2018, because Tronox could have closed the transaction before the ALJ could issue a decision, however, the Commission filed a federal complaint in the U.S. District Court for the District of Columbia to seek a preliminary injunction. After a three-day hearing at the federal district court, Judge Trevor N. McFadden ruled for the Commission and issued an opinion and order granting the motion for a preliminary injunction on September 12, 2018. In his opinion, Judge McFadden found that the Commission established a strong presumption of anticompetitive effects in the market for chloride TiO2 in North America and that the parties' rebuttal evidence did not overcome the presumption. After the completion of the federal court action, the ALJ issued an Initial Decision on December 7, 2018. Like the decision in the federal court, the ALJ found that the Acquisition may substantially lessen competition in the relevant market in violation of Section 7 of the Clayton Act and Section 5 of the FTC Act. The parties thereafter engaged with Commission staff in settlement discussions to resolve the Commission's concerns relating to lost competition in the North American chloride TiO2 market.

To remedy the anticompetitive effects that would result from the proposed Acquisition in the North American chloride TiO2 market, the proposed Decision and Order (''Order'') contained in the Consent Agreement requires Tronox to divest Cristal's North American TiO2 business to INEOS Enterprises (''Ineos'') no later than 30 days from the close of the Acquisition. The divestiture package includes all of Cristal's North American TiO2 production assets, including two chloride TiO2 manufacturing plants located in Ashtabula, Ohio, a research, development, and administrative support facility near Baltimore, Maryland, necessary intellectual property associated with the manufacture and sale of chloride TiO2 in and from North America, an option to acquire rights to use the licensed intellectual property to produce chloride TiO2 products at a new manufacturing facility outside North America, customer contracts in North America with respect to chloride TiO2, the ability to hire all Cristal personnel necessary to operate the business, and access to various transitional services. In short, the Consent Agreement provides Ineos with everything it needs to compete effectively in the North American chloride TiO2 market, along with the ability to produce globally in the future if the business opportunity arises.

The Commission has placed the Consent Agreement on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the Consent Agreement and the comments received, and decide whether it should withdraw from the Consent Agreement, modify it, or make the Order final.

2. The Parties

Tronox, a publicly traded company headquartered in Stamford, Connecticut, is one of the top three manufacturers of chloride TiO2 in North America. Tronox operates one TiO2 pigment manufacturing plant in Hamilton, Mississippi, and two other plants in Botlek, the Netherlands, and Kwinana, Australia. Tronox's three plants produce chloride TiO2 exclusively.

Cristal, headquartered in Jeddah, Saudi Arabia, is a corporation majority-owned by National Industrialization Company (''TASNEE''), a limited company, headquartered in Riyadh, Saudi Arabia. Cristal's primary U.S. subsidiary is Cristal USA Inc., a corporation with its executive offices and principal place of business located in Glen Burnie, Maryland. Cristal, through various subsidiaries, owns and operates chloride TiO2 manufacturing plants in Ashtabula, Ohio, the United Kingdom, Australia, and Saudi Arabia. Cristal also produces sulfate TiO2 at plants in Brazil, China, and France. All of Cristal's TiO2 production in North America is chloride TiO2.

3. The Relevant Market for Chloride TiO2 in North America

The relevant product market in which to assess the competitive effects of the proposed Acquisition is chloride TiO2. TiO2 is a white pigment used to provide opacity, whiteness, and brightness to a vast array of products, including paint, industrial coatings, plastics, paper, and other products. Chloride TiO2 has distinct, superior characteristics that cannot be provided by any other type of TiO2, including sulfate TiO2. Most North American customers would not substitute sulfate TiO2 for chloride TiO2 in response to a small but significant increase in price.

The relevant geographic market is North America, defined as the United States and Canada. The North American market has competitive dynamics, including pricing and demand characteristics, that differ from other geographic regions and limit the ability of North American customers to engage in arbitrage across different geographic regions. Import duties, shipping and handling costs, and other logistical

challenges would render such efforts uneconomical and impractical.

The market for chloride TiO2 in North America is characterized by a limited number of suppliers. Tronox and Cristal are two of the three largest producers of chloride TiO2 in North America and together with The Chemours Company, the top three TiO2 companies control the vast majority of chloride TiO2 sales to North American customers and more than 80 percent of overall North American chloride TiO2 manufacturing capacity.

The proposed Acquisition would cause the already concentrated North American chloride TiO2 market to become even more concentrated, increasing the Herfindahl-Hirschman Index (''HHI'') by more than 700, resulting in a post-Acquisition HHI exceeding 3,000. This increase in concentration far exceeds the thresholds set out in the *Horizontal Merger Guidelines* for raising a presumption that the Acquisition would create or enhance market power.

4. Effects of the Acquisition

As both the federal and administrative courts have already determined, absent a divestiture, the proposed Acquisition is likely to cause competitive harm in the North American chloride TiO2 market. As stated in the Decision, for the sole purpose of settling this matter, Tronox and Cristal do not dispute that the likely effect of the proposed Acquisition, if consummated without a divestiture, may be substantially to lessen competition in the North American chloride TiO2 market. Tronox and Cristal are two of the three largest producers of chloride TiO2 in North America. The proposed Acquisition would have anticompetitive effects in two ways: (1) Increasing the likelihood of anticompetitive coordination among the North American chloride TiO2 companies; and (2) increasing Tronox's incentive and ability to unilaterally curtail production of chloride TiO2 in North America, which would lead to higher prices for chloride TiO2 in North America.

5. Entry

Entry into the North American chloride TiO2 market is neither likely nor timely to deter or counteract any anticompetitive effects of the proposed Acquisition. The chloride TiO2 market is characterized by substantial barriers to entry. Market participants confirmed that building a new TiO2 plant would take multiple years and a large capital investment. Moreover, chloride plants rely on closely held proprietary technology. Expansion or repositioning by the remaining firms that would defeat anticompetitive effects is also unlikely in the already mature North American chloride TiO2 market.

6. The Proposed Consent Agreement

The proposed Consent Agreement restores the competition that would have been lost from the proposed Acquisition by requiring Tronox to divest Cristal's North American TiO2 business to Ineos, a multinational corporation comprised of chemical manufacturing businesses. The proposed divestiture package provides everything needed for Ineos to compete effectively in the North American chloride TiO2 market.

Under the Order, Tronox is required to divest Cristal's North American TiO2 business to Ineos no later than 30 days from the close of the Acquisition. The divestiture package consists of the following: Two chloride TiO2 manufacturing plants and all related facilities in Ashtabula, Ohio; other physical assets in North America, such as a research and development, and administrative support facility near Baltimore (''Baltimore Administration and Technical Center'' or ''BATC'') and research and development equipment located at BATC; the ability to hire the relevant Cristal personnel located in North America, including all employees at the Ashtabula complex and almost all of the support personnel located at BATC; transfer or license of all intellectual property right necessary to manufacture chloride TiO2 products at Ashtabula; an option, exercisable by Ineos during a ten-year period after closing, to acquire rights to use the licensed intellectual property to produce chloride TiO2 products at a new manufacturing facility outside North America; and customer contracts related to Cristal's chloride TiO2 sales in North America. The Order also provides that, during a discrete period, the Commission has a limited ability to modify the lists of excluded assets and retained employees if needed for Ineos to run the business effectively.

The Order requires that, at the request of Ineos, Tronox must provide transition assistance for a period of at least two years, and imposes other terms designed to ensure the viability of the divested business. The Commission also requires the parties to maintain all of the assets in the ordinary course of business pending divestiture to Ineos, and is issuing a separate Order to Maintain Assets at the time it accepts the Consent Agreement for public comment.

A Monitor will oversee Tronox's compliance with the obligations set forth in the Order, the Order to Maintain Assets, and the divestiture agreements. If Tronox does not fully comply with the divestiture requirements of the Order, the Commission may appoint a Divestiture Trustee to divest Cristal's North American TiO2 business and perform Tronox's other obligations consistent with the Order.

The purpose of this analysis is to facilitate public comment on the Consent Agreement to aid the Commission in determining whether it should make the Consent Agreement final. This analysis is not an official interpretation of the proposed Consent Agreement and does not modify its terms in any way.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2019–07697 Filed 4–16–19; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0068; Docket No. 2019–0003; Sequence No. 10]

Information Collection; Economic Price Adjustment

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, the FAR Council invites the public to comment upon a renewal concerning economic price adjustments.

DATES: Submit comments on or before June 17, 2019.

ADDRESSES: The FAR Council invites interested persons to submit comments on this collection by either of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. Go to *http://www.regulations.gov* and follow the instructions on the site.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms.

Mandell/IC 9000–0068, Economic Price Adjustment.

Instructions: Please submit comments only and cite Information Collection 9000–0068, Economic Price Adjustment, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA, 202–208–4949 or email *michaelo.jackson@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Solicitation of Public Comment

Written comments and suggestions from the public should address one or more of the following four points:

(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 the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

B. Purpose

The FAR clause 16.203, Fixed-price contracts with economic price adjustment, and associated clauses at 52.216–2, 52.216–3, and 52.216–4, provide for upward and downward revision of the stated contract price upon occurrence of specified contingencies. In order for the contracting officer to be aware of price changes, the firm must provide pertinent information to the Government. The information is used to determine the proper amount of price adjustments required under the contract.

C. Annual Reporting Burden

Respondents: 3,550.
Responses per Respondent: 214.
Annual Responses: 759,700.
Hours per Response: 1.5.
Total Burden Hours: 1,139,550.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0068, Economic Price Adjustment, in all correspondence.

Dated: April 11, 2019.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2019–07646 Filed 4–16–19; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0414]

Agency Information Collection Activities; Proposed Collection; Comment Request; Manufactured Food Regulatory Program Standards

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the manufactured food regulatory program standards.

DATES: Submit either electronic or written comments on the collection of information by June 17, 2019.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 17, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 17, 2019. 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–2010–N–0414 for ''Manufactured Food Regulatory Program Standards.'' 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.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Manufactured Food Regulatory Program Standards OMB Control Number 0910–0601—Extension

In the **Federal Register** of July 20, 2006 (71 FR 41221), FDA announced the availability of a document entitled ''Manufactured Food Regulatory Program Standards.'' These program standards are the framework that States should use to design and manage their manufactured food programs. There are 43 State programs enrolled, which receive an average of $230,000 (maximum of $300,000) each year for a period of 5 years from the year they first enroll, provided there is significant conformance with and/or maintenance of the 10 standards.

In the first year of implementing the program standards, the State program conducts a baseline self-assessment to determine if it meets the elements of each standard. FDA suggests that the State program use the worksheets and forms contained in the draft program standards; however, it can use alternate forms that are equivalent. The State program maintains the documents and verifies records required for each standard. The information contained in the documents must be current and fit for use. If the State program fails to meet all program elements and documentation requirements of a standard, it develops a strategic plan which includes the following: (1) The individual element of documentation requirement of the standard that was not met, (2) improvements needed to meet the program element or documentation requirement of the standard, and (3) projected completion dates for each task.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Respondent	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
State Departments of Agriculture or Health	43	1	43	569	24,467

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Respondent	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
State Departments of Agriculture or Health	43	10	430	40	17,200

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

One additional State has enrolled in the program since 2016. The total estimated burden of this collection has increased to 41,667 hours among 43 respondents, from a previous total of 15,792 hours among 42 respondents. This increase is due to a change in the self-reported response times provided by the respondents. Because this is a long-term program, we believe this change is the result of more precise documentation by participating agencies as they have grown more experienced over time.

Dated: April 12, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–07706 Filed 4–16–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–3758]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Individual Patient Expanded Access Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by May 17, 2019.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0814. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Guidance for Industry on Individual Patient Expanded Access Applications: Form FDA 3926

OMB Control Number 0910–0814—Extension

This information collection supports Agency regulations, associated guidance, and Form FDA 3926 concerning individual patient expanded access. Individual patient expanded access allows an individual patient who has a serious or immediately life-threatening disease or condition and there is no comparable or satisfactory alternative therapy to diagnose, monitor, or treat the disease or condition, the use of an investigational new drug (IND) outside of a clinical investigation, or the use of an approved drug where availability is limited by a risk evaluation and mitigation strategy. When applicable criteria in § 312.305(a) (21 CFR 312.305(a)) (which apply to all types of expanded access) and the criteria in § 312.310(a) (21 CFR 312.310(a)) (which apply specifically to individual patient expanded access, including for emergency use) are met, FDA may permit expanded access.

Section 312.305(b) sets forth the submission requirements for all types of expanded access requests. To assist respondents with requirements in § 312.305, we developed Form FDA 3926 (Individual Patient Expanded Access Investigational New Drug Application) and the guidance document entitled, ''Individual Patient Expanded Access Applications: Form FDA 3926,'' which are available at *https://www.fda.gov/AboutFDA/ReportsManualsForms/Forms/default.htm* and *https://www.fda.gov/downloads/drugs/guidancecomplianceregulatoryinformation/guidances/ucm432717.pdf,* respectively.

The physician may satisfy some of the submission requirements by referring to information in an existing IND, ordinarily the one held by the investigational drug's manufacturer, if the physician obtains permission from that IND holder. If permission is obtained, the physician should then provide to FDA a letter of authorization (LOA) from the existing IND holder that permits FDA to reference that IND.

One of the requirements under § 312.305(b)(2) is that a ''cover sheet'' must be included ''meeting the requirements of § 312.23(a).'' This provision applies to several types of submissions under part 312 (21 CFR part 312), ranging from commercial INDs under § 312.23 that involve large groups of patients enrolled in clinical trials to requests from physicians to use an investigational drug for an individual patient. Sponsors currently use Form FDA 1571 for all types of IND submissions to meet the requirements in § 312.23(a).

Concerned that physicians requesting expanded access for an individual patient may encounter difficulty in completing Form FDA 1571 and the associated documents because the form is not tailored to requests for individual patient expanded access, we developed Form FDA 3926 to comply with the IND submission requirements in §§ 312.23, 312.305(b), and 312.310(b). Form FDA 3926 provides a streamlined means to request expanded access and is available for licensed physicians. FDA considers a completed Form FDA 3926 with the box in Field 10 checked and the form signed by the physician to be a request in accordance with § 312.10 for a waiver of any additional requirements in part 312 for an IND submission, including additional information currently provided in Form FDA 1571 and Form FDA 1572 (Statement of Investigator, which provides the identity and qualifications of the investigator conducting the clinical investigation).

Under § 312.310(d), in an emergency situation that requires the patient to be treated before a written submission can be made, the request to use the investigational drug for individual patient expanded access may be made by telephone (or other rapid means of communication) to the appropriate FDA review division. Authorization of the emergency use may be given by an FDA official over the telephone, provided the physician explains how the expanded access use will meet the requirements of §§ 312.305 and 312.310 and agrees to submit an expanded access application within 15 working days of FDA's initial authorization of the expanded access use (§ 312.310(d)). The physician may choose to use Form FDA 3926 for the expanded access application.

As explained in the instructions for Form FDA 3926 and discussed in the guidance document, the following information is submitted to FDA:

- Initials for the patient and date of submission.
- Type of submission (initial or followup submission).
- Clinical information, including indication, brief clinical history of the patient (age, gender, weight, allergies, diagnosis, prior therapy, response to prior therapy), and the reason for

requesting the proposed treatment, including an explanation of why the patient lacks other therapeutic options.

• Treatment information, including the investigational drug's name and the name of the entity supplying the drug (generally the manufacturer), the applicable FDA review division (if known), and the treatment plan. This should include the planned dose, route and schedule of administration, planned duration of treatment, monitoring procedures, and planned modifications to the treatment plan in the event of toxicity.

• LOA, generally obtained from the entity that is the sponsor of the IND (*e.g.,* commercial sponsor/drug manufacturer) being referenced, if applicable.

• Physician's qualification statement. An appropriate statement includes medical school attended, year of graduation, medical specialty, State medical license number, current employment, and job title. Alternatively, the relevant portion of the physician's curriculum vitae may be attached.

• Physician's contact information, including name, physical address, email address, telephone number, facsimile number, and physician's IND number, if previously issued by FDA.

• Contents of submission (for followup/additional submissions), including the type of submission being made. FDA accepts Form FDA 3926 for certain followup/additional submissions, which include the following: Initial written IND safety report (§ 312.32(c)); followup to a written IND safety report (§ 312.32(d)); annual report (§ 312.33); summary of expanded access use (treatment completed) (§ 312.310(c)(2)); change in treatment plan (§ 312.30); general correspondence or response to FDA request for information (§ 312.41); and response to clinical hold (§ 312.42(e)).

• Request for authorization to use Form FDA 3926 for individual patient expanded access application.

• Signature of the physician certifying that treatment will not begin until 30 days after FDA receives the completed application and all required material unless the submitting physician receives earlier notification from FDA that the treatment may proceed. The physician agrees not to begin or continue clinical investigations covered by the IND if those studies are placed on clinical hold. The physician also certifies that informed consent will be obtained in compliance with Federal requirements (including FDA's regulations in 21 CFR part 50) and that an institutional review board (IRB) that complies with all Federal requirements (including FDA's regulations in 21 CFR part 56) will be responsible for initial and continuing review and approval of the expanded access use. The physician also acknowledges that in the case of an emergency request, treatment may begin without prior IRB approval, provided the IRB is notified of the emergency treatment within 5 working days of treatment. The physician agrees to conduct the investigation in accordance with all other applicable regulatory requirements.

In the **Federal Register** of November 7, 2018 (83 FR 55723), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Guidance on individual patient expanded access applications: Form FDA 3926	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Expanded access submission elements included in Form FDA 3926	790	3.03	2,394	0.75 (45 mins.)	1,795

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection, we are retaining the currently approved burden estimate. The estimates for ''number of respondents,'' ''number of responses per respondent,'' and ''total annual responses'' were obtained from reports and data management systems from the Center for Drug Evaluation and Research (CDER) and from other sources familiar with the number of submissions received for individual patient expanded access use under part 312. The estimates for ''average burden per response'' were based on information CDER provided and personnel of the U.S. Department of Health and Human Services familiar with preparing and reviewing expanded access submissions by practicing physicians.

Based on data from the Document Archiving, Reporting, and Regulatory Tracking System for the number of submissions to FDA using FDA Form 3926 during fiscal years 2015, 2016, and 2017, we estimate that approximately 790 licensed physicians would use FDA Form 3926 to submit 1.46 requests per physician (respondent) for individual patient expanded access, for a total of 1,153 responses annually. Based on these estimates, FDA calculates the total annual responses to be 2,394 (1,153 requests for individual patient expanded access and 1,241 followup submissions) by 790 physicians for an average of 3.03 responses per respondent. FDA estimates the average burden per response to be 45 minutes (0.75 hour). Based on this estimate, FDA calculates the total burden to be 1,795 hours.

Dated: April 11, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–07711 Filed 4–16–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–0001]

Advancing the Development and Implementation of Analysis Data Standards: Key Challenges and Opportunities; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following public workshop entitled ''Advancing the Development and Implementation of Analysis Data Standards: Key Challenges and Opportunities.'' Convened by the Duke-Robert J. Margolis Center for Health Policy at Duke University in partnership with the Critical Path Institute and supported by a cooperative agreement

with FDA, the purpose of the public workshop is to bring the stakeholder community together to discuss challenges and opportunities to advance the development and application of analysis data standards in drug development and regulatory review. This public workshop is being organized to fulfill FDA's commitment in section (I)(J)(5)(c) of the Prescription Drug User Fee Reauthorization Performance Goals and Procedures Fiscal Years 2018 through 2022 (PDUFA VI goals letter; available at *https://www.fda.gov/downloads/forindustry/userfees/prescriptiondruguserfee/ucm511438.pdf*) to convene a public workshop to advance the development and application of analysis data standards. FDA will use the information from this public workshop to inform ongoing and future analysis data standards initiatives and strategic planning to improve the efficiency of regulatory review of electronic submissions.

DATES: The public workshop will be held on June 12, 2019, from 9 a.m. to 4:30 p.m. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public workshop will be held at the Tommy Douglas Conference Center, 10000 New Hampshire Ave., Silver Spring, MD 20903. For more information, please check the following website: *https://www.tommydouglascenter.com/.* There will also be a live webcast for those unable to attend the meeting in person (see *Streaming Webcast of the Public Workshop*).

FOR FURTHER INFORMATION CONTACT: Mary Jo Salerno, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 21, Rm. 3541, Silver Spring, MD 20993–0002, 240–402–0420, *MaryJo.Salerno@fda.hhs.gov.* If contacting in writing, please use the subject line ''Analysis Data Standards Public Workshop.''

SUPPLEMENTARY INFORMATION:

I. Background

Study data standards describe a standard way to exchange clinical and nonclinical research data between computer systems. These standards provide a consistent general framework for organizing study data, including templates for datasets, standard names for variables, and standard ways of doing calculations with common variables. Establishing common study data standards provides new opportunities to transform the vast, diverse, and continually increasing amount of clinical study data into useful information to speed the delivery of new therapies to patients. Having standard, uniform study data enables FDA scientists to combine data from multiple studies to explore many new research questions and gain new insights. Data standards also help FDA receive, process, review, and archive submissions more efficiently and effectively by preventing submission reviewers from having to navigate a high volume of less-structured data, which allows reviewers more time to focus on the scientific review.

The Center for Drug Evaluation and Research (CDER) established the Data Standards Program in 2010. The program has led CDER's efforts to standardize data and has helped FDA meet its commitments in the Prescription Drug User Fee Act Reauthorization Performance Goals and Procedures Fiscal Years 2013 through 2017 (PDUFA V). Accomplishments to date include the following: (1) Publication of a final guidance entitled ''Providing Regulatory Submissions in Electronic Format—eCTD Specifications''; developing a repeatable test process to ensure data standards meet FDA needs; (2) working with FDA's Center for Biologics Evaluation and Research to compile a prioritized list of disease and therapeutic areas for which additional data standardization is needed; and (3) working with partners to develop a series of use cases for clinical study data related to Human Immunodeficiency Virus therapies, vaccines, and comparative clinical endpoint bioequivalence studies.

Standards models that span the data lifecycle from data collection (*e.g.,* Clinical Data Acquisition Standards Harmonization (CDASH)) to tabulated representation (*e.g.,* Standard for the Exchange of Nonclinical Data (SEND) and Study Data Tabulation Model (SDTM)) are foundational for analysis data standards (*e.g.,* Analysis Data Model (ADaM)). FDA is conducting this public workshop to support the PDUFA VI goals to advance the development and application of analysis data standards.

II. Topics for Discussion at the Public Workshop

During the public workshop, speakers and participants will address a range of issues related to the development and implementation of analysis data standards. Items for discussion will include stakeholder experience implementing analysis data standards in electronic submissions. Input will be sought on the key challenges and opportunities to: (1) Improve the efficiency, predictability, and quality of data submissions; (2) support data traceability; and (3) support optimal implementation of analysis data standards. Input will also be sought on approaches to reduce the variability of formats used to submit study data, improve the integration of data across studies, and enable the use of data from sources other than traditional clinical trials.

III. Participating in the Public Workshop

Registration: To register for the public workshop, visit the following website: *https://healthpolicy.duke.edu/events/analysis-data-standards-workshop.* Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone.

Registration is free and based on space availability, with priority given to early registrants. Persons interested in attending this public workshop must register online by June 10, 2019, midnight Eastern Time. There will be no onsite registration. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Duke-Margolis will post on its website if registration closes before the day of the public workshop.

If you need special accommodations due to a disability, please contact Sarah Supsiri at the Duke-Margolis Center for Health Policy, 202–791–9561, *sarah.supsiri@duke.edu,* no later than June 5, 2019.

Streaming Webcast of the Public Workshop: This public workshop will also be webcast. Webcast participants will be able to submit questions and comments via the webcast portal. Following the workshop, archived video footage will be available on the Duke-Margolis website at *https://healthpolicy.duke.edu/events/analysis-data-standards-workshop.* Organizations are requested to register all participants, but to view using one connection per location whenever possible. Webcast participants will be sent technical system requirements in advance of the event. Before joining the streaming webcast of the public workshop, we recommend that you review these technical system requirements. FDA has verified the website addresses in this document, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

Transcripts: Please be advised that transcripts will not be available.

Workshop Materials: All event materials will be provided to registered attendees via email before the workshop

and will also be publicly available on the Duke-Margolis website at *https://healthpolicy.duke.edu/events/analysis-data-standards-workshop.*

Dated: April 12, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–07700 Filed 4–16–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee hearing.

Name: National Committee on Vital and Health Statistics (NCVHS), Full Committee Meeting.

Date and Times: Wednesday, June 5, 2019: 9:00 a.m.–5:00 p.m. (EST), Thursday, June 6, 2019: 8:30 a.m.–3:00 p.m. (EST)

Place: U.S. Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue SW, Rm. 505A, Washington, DC 20201.

Status: Open.

Purpose: At the June 5–6, 2019 meeting, the Committee will deliberate draft recommendations for the HHS Secretary, move forward on activities outlined in the NCVHS 2019 workplan, and hold discussions on several health data policy topics. Anticipated action items during this meeting include a letter that outlines recommendations to the Secretary and an accompanying report focused on a framework for health information privacy and security.

Specifically, the Privacy, Confidentiality and Security Subcommittee will provide an update to the full Committee regarding its working meeting held in March 2019 focused on health information privacy and security beyond the scope of HIPAA. This will include discussion of a draft report that will lay out a framework for extending basic protections for health information privacy and security, a result of two years of NCVHS hearings and deliberations, to understand the environment and consider what might be a workable framework that supports innovative use of health information to advance health and wellness and reduces administrative burden, while protecting the rights of information subjects. Together with this draft report, the Subcommittee plans to present a draft set of recommendations to the HHS Secretary based on the framework put forth in the report for full Committee deliberation.

The Subcommittee on Standards will review the timeline of its ICD–11 evaluation project and discuss any refinements that result from exploration of existing research on the impact of the transition to ICD–10, ICD–10–CM, and ICD–10–PCS. The Subcommittee will update the full Committee regarding progress on plans for an August expert roundtable meeting, which will focus on identifying research questions HHS could address to evaluate benefit and cost of the upcoming transition from ICD–10 to ICD–11 for mortality and morbidity. The Subcommittee will report on continued progress on the elements of a Predictability Roadmap in follow up to its December 2018 hearing—the current focus will be on evaluating the function and purpose of the Designated Standards Maintenance Organizations (DSMOs) in light of changes in the health care standards environment and the need for harmonization of administrative and clinical standards. Finally, the Subcommittee anticipates continuing discussion and possible activities in collaboration with the Office of the National Coordinator for Health Information and Technology (ONC) regarding the opportunity for burden reduction through convergence of administrative and clinical data standards using the prior authorization transaction as a use-case.

The Subcommittee on Population Health will provide an update on its work to address community data needs, including use-cases, for the full Committee to consider providing as input to the Federal Data Strategy. The Committee will further refine the remainder of its 2019 workplan and discuss potential options moving into fiscal year 2020.

The times and topics are subject to change. Please refer to the posted agenda for any updates.

Contact Persons For More Information: Substantive program information may be obtained from Rebecca Hines, MHS, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, 3311 Toledo Road, Hyattsville, Maryland 20782, telephone (301) 458–4715. Summaries of meetings and a roster of Committee members are available on the home page of the NCVHS website: *www.ncvhs.hhs.gov,* where further information including an agenda and instructions to access the broadcast of the meeting will also be posted.

Should you require reasonable accommodation, please contact the CDC Office of Equal Employment Opportunity on (770) 488–3210 as soon as possible.

Dated: April 11, 2019.

Sharon Arnold,

Associate Deputy Assistant Secretary for Planning and Evaluation, Science and Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 2019–07709 Filed 4–16–19; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel NIAID Clinical Trial Planning and Implementation Grant (R34 and U01).

Date: May 23, 2019.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Reed Solomon Shabman, Ph.D., Scientific Review Officer, Scientific Review Program DEA/NIAID/NIH/DHHS, 5601 Fishers Lane, MSC–9823 Rockville, MD 20852, 240–292–0189, *reed.shabman@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel NIAID Clinical Trial Planning and Implementation Grant (R34 and U01).

Date: June 6, 2019.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Reed Solomon Shabman, Ph.D., Scientific Review Officer Scientific Review Program DEA/NIAID/NIH/DHHS,

5601 Fishers Lane, MSC–9823 Rockville, MD 20852, 240–292–0189, *reed.shabman@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel NIAID Clinical Trial Planning and Implementation Grant (R34 and U01).

Date: June 7, 2019.

Time: 10:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Reed Solomon Shabman, Ph.D., Scientific Review Officer Scientific Review Program DEA/NIAID/NIH/DHHS, 5601 Fishers Lane, MSC–9823 Rockville, MD 20852, 240–292–0189, *reed.shabman@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: April 11, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–07643 Filed 4–16–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Research Enhancement Award R15.

Date: May 24, 2019.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Inna Gorshkova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–435–1784, *gorshkoi@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Exploration of Antimicrobial Therapeutics and Resistance.

Date: June 3–4, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Harborplace Hotel, 202 East Pratt Street, Baltimore, MD 21202.

Contact Person: Susan Daum, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, Bethesda, MD 20892, 301–827–7233, *susan.boyle-vavra@nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Skeletal Biology Development and Disease Study Section.

Date: June 4–5, 2019.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Georgetown, 2201 M Street NW, Washington, DC 20036.

Contact Person: Aruna K. Behera, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4211, MSC 7814, Bethesda, MD 20892, 301–435–6809, *beheraak@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Interventions to Prevent and Treat Addictions Study Section.

Date: June 6–7, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW, Washington, DC 20037.

Contact Person: Miriam Mintzer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 3108, Bethesda, MD 20892, (301) 523–0646, *mintzermz@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Psychosocial Risk and Disease Prevention Study Section.

Date: June 10–11, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Stacey FitzSimmons, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7808, Bethesda, MD 20892, (301) 451–9956, fitzsimmonss@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 11, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–07644 Filed 4–16–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0030]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Waiver of the Foreign Residence Requirement of the Immigration and Nationality Act

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until May 17, 2019.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *dhsdeskofficer@omb.eop.gov.* All submissions received must include the agency name and the OMB Control Number 1615–0030 in the subject line.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, Telephone number (202) 272–8377

(This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on November 23, 2018, at 83 FR 60885, allowing for a 60-day public comment period. USCIS did receive 5 comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2008–0012 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Waiver of the Foreign Residence Requirement of Section 212(e) of the Immigration and Nationality Act.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–612; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. This information collection is necessary and may be submitted only by an alien who believes that compliance with foreign residence requirements would impose exceptional hardship on his or her spouse or child who is a citizen of the United States, or a lawful permanent resident; or that returning to the country of his or her nationality or last permanent residence would subject him or her to persecution on account of race, religion, or political opinion. Certain aliens admitted to the United States as exchange visitors are subject to the foreign residence requirements of section 212(e) of the Immigration and Nationality Act (the Act). Section 212(e) of the Act also provides for a waiver of the foreign residence requirements in certain instances.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–612 is 7,200 and the estimated hour burden per response is .333 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 2,398 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $882,000.

Dated: April 11, 2019.

Jerry L. Rigdon,

Deputy Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2019–07603 Filed 4–16–19; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6143–N–01]

SUPPORT for Patients and Communities Act; Establishment of Funding Formula

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: This document establishes the funding formula that would allocate funds ''for assistance to States to provide individuals in recovery from a substance use disorder stable, temporary housing for a period of not more than 2 years or until the individual secures permanent housing, whichever is earlier'', as enacted by the SUPPORT for Patients and Communities Act on October 24, 2018. The law requires that the formula be established by the Secretary ''not later than 60 days after the date of enactment''. At this time, no funds have been appropriated for this program.

FOR FURTHER INFORMATION CONTACT: For questions on how this formula was developed, contact Todd M. Richardson, General Deputy Assistant Secretary, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street SW, Room 8100, Washington, DC 20410–6000; telephone number 202–402–5706, or send an email to *Todd.M.Richardson@hud.gov.* (These are not toll-free telephone numbers.) A text telephone is available for persons with hearing or speech impairments at 800–877–8339. Additional copies of this notice are available through HUD User at 800–245–2691 for a small fee to cover duplication and mailing costs.

SUPPLEMENTARY INFORMATION:

I. This Notice

Section 8071 of the ''Substance Use–Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act'' or the ''SUPPORT for Patients and Communities Act'' (Pub. L. 115–271, approved October 24, 2018) (the Act), the Secretary of HUD must establish a funding formula within 60 days of enactment to allocate whatever funds are appropriated ''for assistance to States to provide individuals in recovery from a substance use disorder stable, temporary housing for a period of not more than 2 years or until the individual secures permanent housing, whichever is earlier''. The purpose of this notice is to establish this formula.

II. Data Used To Establish the Formula

The Act has specific criteria that the Secretary must use to establish the formula. Those criteria first limit the number of eligible states [1] to receive funding to just those ''States with an age-adjusted rate of drug overdose deaths that is above the national

[1] Section 8071 (g) ''includes any State as defined in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302) and the District of Columbia''.

overdose mortality rate, according to the Centers for Disease Control and Prevention''. The national age adjusted overdose mortality rate in 2016 was 19.8 per 100,000 persons. There were 25 states, including the District of Columbia, above the national rate.

Among the eligible states, the Act requires that the formula to be needs based, with states having greater need getting more funding. The Act specifies that need be determined using the following criteria:

- The highest average rates of unemployment based on data provided by the Bureau of Labor Statistics for calendar years 2013 through 2017; with this factor weighted at 15 percent. To calculate this factor, HUD uses the Bureau of Labor Statistics Local Area Unemployment Statistics (LAUS) Annual Average Series data downloaded from *https://www.bls.gov/lau/rdscnp16.htm* on November 28, 2018.
- The lowest average labor force participation rates based on data provided by the Bureau of Labor Statistics for calendar years 2013 through 2017; with this factor weighted at 15%. For purposes of creating a variable that results in a larger number equaling the problem, HUD has calculated the highest average NON-participation in the labor force rate. This is calculated as the non-institutionalized population over age 16 less those employed and looking for work (unemployed). To calculate this factor, HUD uses the Bureau of Labor Statistics Local Area Unemployment Statistics (LAUS) Annual Average Series data downloaded from *https://www.bls.gov/lau/rdscnp16.htm* on November 28, 2018.
- The highest age-adjusted rates of drug overdose deaths based on data from the Centers for Disease Control and Prevention; with this factor weighted at 70 percent. The 2016 rates were downloaded from *https://www.cdc.gov/drugoverdose/data/statedeaths.html* on November 21, 2018.

The statute is specific that the data for the first two factors of the formula be from 2013 through 2017. The statute does not specify the currency of the data to be used for determining the eligible states as well as the third factor, overdose deaths. For this Notice, and for any funds that are appropriated in FY 2019 for allocation by this formula, HUD will use the 2016 overdose death rates that were available within 60 days of the law passing. If funds are appropriated in any year after FY 2019, HUD will redetermine eligible states and recalculate the formula using the most current data on drug overdose deaths available within 60 days of when funds are appropriated.

III. Formula

For the eligible states, including the District of Columbia, HUD is establishing the formula based on rates of problems rather than on shares of the count of problems. The specific formula is represented by the following equation, where the weight specifies what percent of the funds will be allocated on that specific variable:

[0.15 * *Average unemployment rate 2013 to 2017 in a state*
Sum of Average unemployment rate 2013 to 2017 in the eligible states
+ 0.15 * *Average of the rates of persons outside of the labor force 2013 to 2017 in a state*
Sum of the averages of rate of persons outside of the labor force 2013 to 2017 in the eligible states
+ 0.70 * *Average age-adjusted drug overdose deaths in a state*
Sum of the averages of age-adjusted drug overdose deaths in the eligible states]

At this time, no funds have been appropriated for this program. If funds are appropriated in FY 2019, the funds would be allocated based on the percentages shown in Table 1. Table 1 shows the percent allocated, in order of highest percent allocated to lowest among the 25 states and the District of Columbia that have an age-adjusted rate of drug overdose deaths that is above the national overdose mortality rate. For example, this allocation would provide 6.47 percent of whatever is allocated to West Virginia and 5.01 percent to the District of Columbia, the two states with the greatest need as measured by percent of problems described above.

TABLE 1—ALLOCATION RESULT OF ESTABLISHED FORMULA

State name	Percent of appropriated funds allocated
West Virginia	6.47
District of Columbia	5.01
Ohio	5.00
Pennsylvania	4.90
New Hampshire	4.68
Kentucky	4.56
Maryland	4.31
Massachusetts	4.30
Rhode Island	4.26
Delaware	4.17
Maine	3.88
Connecticut	3.85
New Mexico	3.84
Michigan	3.67
Tennessee	3.63
Florida	3.56
New Jersey	3.49
Indiana	3.48
Nevada	3.46
Missouri	3.43
Louisiana	3.42
Arizona	3.28
Oklahoma	3.21
Utah	3.08
Vermont	*3.07*
Total	100.00

Findings and Certifications

Environmental Impact

This notice involves the establishment of a formula allocation and does not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.19(c)(6) of HUD's regulations, this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Federalism Impact

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any policy document that has federalism implications if the document either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the document preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the executive order. This notice establishes a formula as required under the SUPPORT for Patients and Communities Act, for allocating funds to states, subject to appropriations. This notice also details the technical methods used in making said formula. As a result, this notice is not subject to review under the order.

Dated: April 11, 2019.

Todd M. Richardson,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 2019–07681 Filed 4–16–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6155–N–01]

Review of HUD Policy in Opportunity Zones

AGENCY: Office of the Assistant Secretary for Policy Development and Research (PD&R), Department of Housing and Urban Development (HUD).

ACTION: Request for information.

SUMMARY: Consistent with Executive Order 13853, ''Establishing the White House Opportunity and Revitalization Council,'' this document informs the public that HUD intends to maximize the beneficial impact of investment in Opportunity Zones. HUD is reviewing its existing policies, practices, planned actions, regulations, and guidance regarding HUD-administered programs and laws to identify actions HUD can take to encourage beneficial investment, both public and private, in urban and economically distressed communities, including qualified Opportunity Zones. HUD seeks input and recommendations from the public regarding potential agency actions.

DATES: *Comment Due Date:* June 17, 2019.

ADDRESSES: Interested parties are invited to submit comments regarding this request for information. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Public Finance and Regulatory Analysis Division, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street SW, Room 8216, Washington, DC 20410–0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages the public to submit ideas electronically. Electronic submission of ideas allows the submitter maximum time to formulate and present the suggestion, ensures timely receipt by HUD, and enables HUD to make the ideas received immediately available to the public. Suggestions submitted electronically through the *www.regulations.gov* website can be viewed by interested members of the public. Members of the public should follow the instructions provided on that site to submit suggestions electronically.

Note: To receive consideration, ideas must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the request for information.

No Facsimile Submissions: Facsimile (fax) submissions are not acceptable.

Public review of information received: All information properly submitted for consideration by HUD will be available for inspection and downloading at *www.regulations.gov.* Members of the public without ready access to the internet may request an appointment to review the information submitted by calling the Public Finance and Regulatory Analysis Division at 202–402–2967 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at 1–800–877–8339 (this is a toll-free number). An appointment for public inspection and copying of the information must be scheduled in advance and will occur between 8 a.m. and 5 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Daniel Marcin, Economist, Public Finance and Regulatory Analysis Division, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street SW, Room 8216, Washington, DC 20410–0500; telephone number 202–402–2967 (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 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Context: Opportunity Zones and the White House Opportunity and Revitalization Council

The 2017 Tax Cuts and Jobs Act (Pub. L. 115–97) created new tax incentives for investments made in Opportunity Zones to spur economic development and job creation by encouraging long-term investment in low-income communities nationwide. Opportunity Zones are designated census tracts that provide incentives for long-term private sector investment in economically distressed communities. State executives nominated census tracts of communities most in need of private investment to the U.S. Department of the Treasury, which then certified the tracts as Opportunity Zones. The Opportunity Zone designation encourages investment in these certified census tracts by granting investors extensive Federal tax advantages for using their capital gains to finance new projects and enterprises (or substantially improve existing projects and enterprises) located within Opportunity Zones.

Executive Order 13853 created the White House Opportunity and Revitalization Council with the HUD Secretary (or the Secretary's designee) as the Chair. This Executive Order directs the Council to:

(a) Assess the actions each Federal agency can take under existing authorities to prioritize or focus Federal investments and programs on urban and economically distressed communities, including qualified opportunity zones;

(b) Assess the actions each agency can take under existing authorities to minimize all regulatory and administrative costs and burdens that discourage public and private investment in urban and economically distressed communities, including qualified opportunity zones;

(c) Regularly consult with officials from State, local, and tribal governments and individuals from the private sector to solicit feedback on how best to stimulate the economic development of urban and economically distressed areas, including qualified opportunity zones;

(d) Coordinate Federal interagency efforts to help ensure that private and public stakeholders—such as investors; business owners; institutions of higher education (including Historically Black Colleges and Universities, as defined by 50 U.S.C. 3224(g)(2), and tribally controlled colleges and universities, as defined by 25 U.S.C. 1801(a)(4)); K–12 education providers; early care and education providers; human services agencies; State, local, and tribal leaders; public housing agencies; non-profit organizations; and economic development organizations—can successfully develop strategies for economic growth and revitalization;

(e) Recommend policies that would:

(i) Reduce and streamline regulatory and administrative burdens, including burdens on applicants applying for multiple Federal assistance awards;

(ii) Help community-based applicants, including recipients of investments from qualified opportunity funds, identify and apply for relevant Federal resources; and

(iii) Make it easier for recipients to receive and manage multiple types of public and private investments, including by aligning certain program requirements;

(f) Evaluate the following:

(i) Whether and how agencies can prioritize support for urban and economically distressed areas, including

qualified opportunity zones, in their grants, financing, and other assistance;

(ii) Appropriate methods for Federal cooperation with and support for States, localities, and tribes that are innovatively and strategically facilitating economic growth and inclusion in urban and economically distressed communities, including qualified opportunity zones, consistent with preserving State, local, and tribal control;

(iii) Whether and how to develop an integrated web-based tool through which entrepreneurs, investors, and other stakeholders can see the full range of applicable Federal financing programs and incentives available to projects located in urban and economically distressed areas, including qualified opportunity zones;

(iv) Whether and how to consider urban and economically distressed areas, including qualified opportunity zones, as possible locations for Federal buildings, through consultation with the General Services Administration;

(v) Whether and how Federal technical assistance, planning, financing tools, and implementation strategies can be coordinated across agencies to assist communities in addressing economic problems, engaging in comprehensive planning, and advancing regional collaboration; and

(vi) What data, metrics, and methodologies can be used to measure the effectiveness of public and private investments in urban and economically distressed communities, including qualified opportunity zones.

II. Overview of Opportunity Zones

There are more than 8,700 Census tracts designated by a Governor or other chief administrative official as Opportunity Zones across all 50 States, the District of Columbia, and five U.S. territories. The following are relevant data and characteristics of the Opportunity Zones and those who reside within Opportunity Zones:

- Nearly 35 million Americans live in communities designated as Opportunity Zones.
- On average, the median family income in an Opportunity Zone is 37 percent below the State median.
- More than one-in-five of all Opportunity Zones have a poverty rate over 40 percent, compared to just over one-in-eight ''low-income communities'' (LICs) and one-in-20 Census tracts nationwide.
- 71 percent of Opportunity Zones meet the U.S. Treasury Department's definition of ''severely distressed.'' [1]
- Life expectancy is on average three years shorter for Opportunity Zone residents than it is nationally.
- Approximately 22 percent of Opportunity Zone adult residents have not attained a high school diploma, compared to 13 percent nationally.

III. HUD-Supported Programs and Initiatives Within Opportunity Zones

Below is a snapshot of HUD's programs and initiatives within Opportunity Zones.[2] These statistics are being provided in order to facilitate the public's thought process—as well as generate ideas and answers to the questions asked later in this request for information—regarding HUD's existing program presence within Opportunity Zones. Most numbers are rounded to the nearest thousand. Where percentages of the total are given, those percentages exclude data for which location is unreliable or misleading.

General

○ 2,394,000 persons living in HUD-assisted housing within Opportunity Zones, representing about 27 percent of residents of HUD-assisted housing.

○ 14 proposed EnVision Center sites inside or within 1 mile of an Opportunity Zone.

Office of Public and Indian Housing (PIH)

○ 371,000 public housing units within Opportunity Zones, representing about 38 percent of the total.

○ 738,000 persons living in public housing within Opportunity Zones, representing about 39 percent of the total.

○ 2,254 public housing developments within Opportunity Zones, or about 33 percent of the national total.

○ 465,000 housing choice voucher (HCV) units within Opportunity Zones, 22 percent of the total.

○ 992,000 persons with HCVs, or 21 percent of the national total, living within Opportunity Zones.

○ 62,000 project-based voucher (PBV) units within Opportunity Zones, which is 32 percent of the total.

○ 116,000 persons living in PBV units within Opportunity Zones, representing 32 percent of the total.

○ 65 Choice Neighborhood Grants—with a total of approximately $571,643,000 in grant funding—from 2010–2016 within Opportunity Zones.[3] These are 68 percent of all Choice Neighborhood Grants and 86 percent of national Choice Neighborhood Grant spending. 46 of these grants were Planning Grants, and the other 19 were Implementation Grants.

Office of Housing

○ 337,000 project-based rental assistance (PBRA) units within Opportunity Zones, or 27 percent of the national total.

○ 548,000 persons living in PBRA units within Opportunity Zones, or 27 percent of the total.

○ 2,400 Multi-Family (MF) housing properties with Federal Housing Administration (FHA) mortgage insurance within Opportunity Zones, representing 21 percent of multifamily housing properties with FHA mortgage insurance.

○ $14,755,260,000 in unpaid principal balance for MF properties with FHA mortgage insurance within Opportunity Zones, for 17 percent of the national total.

○ 617,000 FHA-insured Single-Family properties within Opportunity Zones, or 8 percent of the total.

○ $75,353,474,000 in unpaid principal balance for Single-Family properties with FHA mortgage insurance within Opportunity Zones, or 6 percent of all Single-Family unpaid principal balance.

○ 536 healthcare facilities with FHA mortgage insurance in Opportunity Zones, representing 12 percent of all such facilities.

○ $4,017,448,000 in unpaid principal balance for healthcare facilities with FHA insurance in Opportunity Zones, representing 12 percent of the total unpaid principal balance on FHA-insured mortgages on healthcare facilities.

○ Almost one-third of Rental Assistance Demonstration (RAD) Component 1 conversions fall within Opportunity Zones.

Office of Community Planning and Development (CPD)

○ Over 1,200 cities, urban counties, States, Puerto Rico, and U.S. Territories received over $3,000,000,000 in Community Development Block Grant (CDBG) funding each year between fiscal years 2014 and 2019. Since all communities can potentially receive CDBG funding, either directly from HUD or through their respective State government, funds could be used to

[1] ''Severely distressed'' generally means a poverty rate of 30 percent or a median family income no greater than 60 percent of the area benchmark. See *The State of Socioeconomic Need and Community Change in Opportunity Zones,* Economic Innovation Group (Dec. 2018). *https://eig.org/opportunityzones/communitychange.*

[2] These statistics are current as of December 17, 2018.

[3] Grant is counted if the target area contains the center of one or more Opportunity Zone Census tracts.

assist activities and projects in Opportunity Zones nationwide.

○ There are 600 outstanding Section 108 guaranteed loans with an outstanding loan balance of $1,250,000,000 for community and economic development projects nationwide. Under the Section 108 Loan Guarantee Program, CBDG grantees nationwide have approximately $14 billion in available borrowing capacity that could potentially be deployed in Opportunity Zones.

○ Approximately $84,000,000,000 in Community Development Block Grant—Disaster Recovery (CDBG–DR) funds has been awarded since 2001 to help cities, counties, and States recover from Presidentially-declared disasters. Nearly half of this amount has been awarded in response to disasters occurring between 2015 and 2017. Since CDBG–DR assistance may fund a broad range of recovery activities, these funds could be used in eligible disaster-impacted Opportunity Zones.

○ 256,000 HOME Investment Partnerships Program (HOME) housing projects completed—with a total of approximately $2,853,095,000 in grant funds expended—from 1996–2018 within Opportunity Zones.

Office of Field Policy and Management (FPM)

○ There are 186 Opportunity Zones within HUD's 14 Urban Promise Zones.

○ An approximate numerical breakdown of Opportunity Zones throughout HUD's 10 regions:

Region I: 344
Region II: 683
Region III: 741
Region IV: 2,529
Region V: 1,339
Region VI: 1,043
Region VII: 341
Region VIII: 272
Region IX: 1,194
Region X: 278

IV. Purpose of This Request for Information

HUD has determined that it should undertake a substantive review of existing policies, practices, planned actions, regulations and guidance regarding HUD-administered programs to identify actions HUD can take to encourage beneficial investment in urban and economically distressed communities, including Opportunity Zones, while continuing to fulfill its mission to create strong, sustainable, inclusive communities and quality affordable homes for all. In conducting this review, HUD believes that it would benefit from the information and perspectives of State, local and tribal officials, experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole. HUD is, therefore, requesting information to guide and enhance this review.

VI. Specific Information Requested

To assist in HUD's approach to Opportunity Zones, HUD invites ideas and information on the following questions:

(1) How should HUD use its existing authorities to maximize the beneficial impact of public and private investments in urban and economically distressed communities, including Opportunity Zones? For example:

a. What actions can HUD take under existing authorities to prioritize or focus Federal investments and programs on urban and economically distressed communities, including Opportunity Zones?

b. What actions can HUD take under existing authorities to minimize all of the regulatory and administrative costs and burdens that discourage public and private investment in urban and economically distressed communities, including Opportunity Zones?

c. What tools can HUD provide to make local communities, investors and other stakeholders more aware of the full range of applicable Federal financing programs and incentives available to projects located in urban and economically distressed areas, including Opportunity Zones?

d. What polices could HUD implement that would help community-based applicants, including recipients of investments from Qualified Opportunity Funds, identify and apply for relevant Federal resources?

e. What policies could HUD implement that would make it easier for recipients to receive and manage multiple types of public and private investments, including by aligning certain program requirements?

(2) HUD is considering creating an information portal on Opportunity Zones. What types of information should HUD include in such a tool? How can it be made accessible to and most usable by HUD's various stakeholders and customers? If the portal includes information on Federal financing programs and incentives beyond those offered by HUD, what types of information would be most useful to include?

(3) In what ways could HUD structure preference points for Opportunity Zones and incorporate policy objectives in the rating factors for applications in discretionary grant competitions to increase the incentive to invest in Opportunity Zones? In addition, how should HUD prioritize support for urban and economically distressed areas, including Opportunity Zones, in its grants, financing, and other assistance?

(4) What types of technical assistance should be offered through HUD?

(5) What role can HUD play in helping to ensure that existing residents, businesses, and community organizations in Opportunity Zones benefit from the influx of investment and remain the focus of their community's growth moving forward?

(6) How can HUD properly evaluate the impact of Opportunity Zones on communities?

(7) How should HUD interact with other stakeholders to maximize the success of the Opportunity Zone incentive? For example:

a. How should HUD interact with officials from State, local, and tribal governments, institutions, local and regional agencies, businesses, and individuals from the private sector to most effectively encourage beneficial investment in urban and economically distressed areas?

b. How should HUD participate in Federal interagency efforts to help ensure that private and public stakeholders can successfully develop strategies for economic growth and revitalization in urban and economically distressed areas? Stakeholders might include investors; business owners; institutions of higher education (including Historically Black Colleges and Universities, as defined by 50 U.S.C. 3224(g)(2), and tribally controlled colleges and universities, as defined by 25 U.S.C. 1801(a)(4)); K–12 education providers; early care and education providers; human services agencies; State, local, and tribal leaders; public housing agencies; non-profit organizations; and economic development organizations.

c. How should Federal technical assistance, planning, financing tools, and implementation strategies be coordinated across agencies to assist communities in addressing economic problems, engaging in comprehensive planning, and advancing regional collaboration?

(8) How might Qualified Opportunity Fund investments support the goal of ending homelessness?

(9) Are there other aspects of Opportunity Zones that should be considered and are not addressed in this request for information?

Dated: April 11, 2019.

Todd M. Richardson,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 2019–07682 Filed 4–16–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6147–N–01]

Section 8 Housing Assistance Payments Program—Fiscal Year 2019 Inflation Factors for Public Housing Agency Renewal Funding

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: This notice establishes Renewal Funding Inflation Factors (RFIFs) to adjust Fiscal Year (FY) 2019 renewal funding for the Housing Choice Voucher (HCV) program of each public housing agency (PHA), as required by the Consolidated Appropriations Act, 2019. The notice apportions the expected percent change in national Per Unit Cost (PUC) for the HCV program, 4.00 percent, to each PHA based on the change in Fair Market Rents (FMRs) for their operating area to produce the FY 2019 RFIFs. HUD's FY 2019 methodology is the same as that which was used in FY 2018.

Applicable Date: April 17, 2019.

FOR FURTHER INFORMATION CONTACT: Contact Miguel A. Fontanez, Director, Housing Voucher Financial Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, telephone number 202–402–4212; or Peter B. Kahn, Director, Program Parameters and Research Division, Office of Policy Development and Research, telephone number 202–402–2409, for technical information regarding the development of the schedules for specific areas or the methods used for calculating the inflation factors. Their address is: Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410. Hearing- or speech-impaired persons may contact the Federal Relay Service at 800–877–8339 (TTY). Other than the ''800'' TTY number, the above-listed telephone numbers are not toll free.

SUPPLEMENTARY INFORMATION:

I. Background

Division G, Title II of the Consolidated Appropriations Act, 2019 requires that the HUD Secretary, for the calendar year 2019 funding cycle, provide renewal funding for each public housing agency (PHA) based on validated voucher management system (VMS) leasing and cost data for the prior calendar year and by applying an inflation factor as established by the Secretary, by notice published in the **Federal Register**. This notice announces the availability of the FY 2019 inflation factors and describes the methodology for calculating them. Tables in PDF and Microsoft Excel formats showing Renewal Funding Inflation Factors (RFIFs) by HUD Fair Market Rent Area are available electronically from the HUD data information page at: *https://www.huduser.gov/portal/datasets/rfif/rfif.html.*

II. Methodology

RFIFs are used to adjust the allocation of HCV program funds to PHAs for local changes in rents, utility costs, and tenant incomes. To calculate the RFIFs, HUD first forecasts a national inflation factor, which is the annual change in the national average Per Unit Cost (PUC). HUD then calculates individual area inflation factors, which are based on the annual changes in the two-bedroom Fair Market Rent (FMR) for each area. Finally, HUD adjusts the individual area inflation factors to be consistent with the national inflation factor.

HUD's forecast of the national average PUC is based on forecasts of gross rent and tenant income. Each forecast is produced using historical and forecasted macroeconomic data as independent variables, where the forecasts are consistent with the Economic Assumptions of the Administration's FY 2019 Budget. The forecast of gross rent is itself based on forecasts of the Consumer Price Index (CPI) Rent of Primary Residence Index and the CPI Fuels and Utilities Index. Forecasted values of these series are applied to the FY 2019 national average two-bedroom FMR to produce a CY 2019 value. A ''notional'' PUC is calculated as the difference between gross rent value and 30 percent of tenant income (the standard for tenant rent contribution in the voucher program). The change between the forecasted CY 2019 notional PUC and the CY 2018 notional PUC is the expected national change in PUC, or 4.00 percent. HUD uses a notional PUC as opposed to the actual PUC to project costs that are consistent with PHAs leasing the same number and quality of units. For more information on HUD's forecast methodology, see 82 FR 26710.

In cases where the FY 2019 FMR is not based on an ad hoc rent survey, the inflation factor for an individual geographic area is based on the annualized change in the area's FMR between FY 2018 and FY 2019. These changes in FMRs are then scaled such that the voucher-weighted average of all individual area inflation factors is equal to the national inflation factor, *i.e.,* the expected annual change in national PUC from CY 2018 to CY 2019, and such that no area has a factor less than one. For PHAs operating in multiple FMR areas, HUD calculates a voucher-weighted average inflation factor based on the count of vouchers in each FMR area administered by the PHA as captured in HUD administrative data as of December 31, 2018.

In 2018, HUD sought comment on potential alternatives to calculate renewal funding inflation factors for areas with an FMR that is based on an ad hoc rent survey (see FR–6099–N–01). In recent years, the use of surveys has resulted in large inflation factors in the first year an ad hoc survey is used in the FMR calculation, followed by much smaller inflation factors even as the underlying survey remains in effect. Commenters generally stressed the importance of including ad hoc surveys in the inflation factor calculation to ensure agencies that face higher per unit costs also receive higher funding. Therefore, HUD is continuing to use its existing methodology of incorporating ad hoc surveys in the calculation of inflation factors. HUD will also track and evaluate the impacts of very large increases in inflation factors.

III. The Use of Inflation Factors

HUD subsequently applies the calculated individual area inflation factors to eligible renewal funding for each PHA based on VMS leasing and cost data for the prior calendar year.

IV. Geographic Areas and Area Definitions

As explained above, inflation factors based on area FMR changes are produced for all FMR areas and applied to eligible renewal funding for each PHA. The tables showing the RFIFs, available electronically from the HUD data information page, list the inflation factors for each FMR area on a state-by-state basis. The inflation factors use the same OMB metropolitan area definitions, as revised by HUD, that are used in the FY 2019 FMRs. PHAs should refer to the Area Definitions Table on the following web page to make certain that they are referencing the correct inflation factors: *http://www.huduser.org/portal/datasets/rfif/FY2019/FY2019_RFIF_FMR_AREA_REPORT.pdf.* The Area Definitions

Table lists areas in alphabetical order by state, and the counties associated with each area. In the six New England states, the listings are for counties or parts of counties as defined by towns or cities. HUD is also releasing the data in Microsoft Excel format to assist users who may wish to use these data in other calculations. The Excel file is available at *https://www.huduser.gov/portal/datasets/rfif/rfif.html.* Note that, as described earlier, the actual renewal funding inflation factor applied to agency funding will be the voucher-weighted average of the FMR area factors when the PHA operates in multiple areas.

VI. Environmental Impact

This notice involves a statutorily required establishment of a rate or cost determination which does not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Dated: April 12, 2019.

Todd Richardson,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 2019–07679 Filed 4–16–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2019–N036; FXES11130100000–190–FF01E00000]

Endangered Species; Receipt of Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation and survival of endangered species under the Endangered Species Act of 1973, as amended. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive your written comments on or before May 17, 2019.

ADDRESSES: *Document availability and comment submission:* Submit requests for copies of the applications and related documents and submit any comments by one of the following methods. All requests and comments should specify the applicant name(s) and application number(s) (*i.e.,* Dana Ross TE–08964A–2):

- *Email: permitsR1ES@fws.gov.*
- *U.S. Mail:* Marilet Zablan, Program Manager, Restoration and Endangered Species Classification, Ecological Services, U.S. Fish and Wildlife Service, Pacific Regional Office, 911 NE 11th Avenue, Portland, OR 97232–4181.

FOR FURTHER INFORMATION CONTACT: Colleen Henson, Recovery Permit Coordinator, Ecological Services, (503) 231–6131 (phone); *permitsR1ES@fws.gov* (email). Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications for permits under section 10(a)(1)(A) of the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested permits would allow the applicants to conduct activities intended to promote recovery of species that are listed as endangered under the ESA.

Background

With some exceptions, the ESA prohibits activities that constitute take of listed species unless a Federal permit is issued that allows such activity. The ESA's definition of ''take'' includes such activities as pursuing, harassing, trapping, capturing, or collecting in addition to hunting, shooting, harming, wounding, or killing.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered or threatened species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. These activities often include such prohibited actions as capture and collection. Our regulations implementing section 10(a)(1)(A) for these permits are found in the Code of Federal Regulations (CFR) at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Application Available for Review and Comment

Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild. The ESA requires that we invite public comment before issuing this permit. Accordingly, we invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to this application. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies.

Application No.	Applicant, city, state	Species	Location	Take activity	Permit action
TE–08964A–2	Dana Ross, Corvallis, OR.	Fender's blue butterfly (*Icaricia icarioides fenderi*), Taylor's checkerspot butterfly (*Euphydryas editha taylori*).	Oregon	Harass by pursuit, capture, handle, identify, and release..	Renew.
TE–25955C–2	Dr. Melissa Price, University of Hawaii at Mānoa, Honolulu, HI.	Aeo, Hawaiian stilt (*Himantopus mexicanus knudseni*), Alae keokeo, Hawaiian coot (*Fulica alai*), Alae ula, Hawaiian common gallinule (*Gallinula chloropus sandvicensis*), Koloa maoli, Hawaiian duck (*Anas wyvilliana*).	Hawaii	Aeo only: Harass by nest monitoring; capture, handle, measure, weigh; biosample; band, attach radio transmitters; and release. All species: Harass by nesting and observational surveys; and salvage.	Amend.
TE–28331D–0	Cardno-GS, Honolulu, HI.	Humped tree snail (*Partula gibba*), Micronesian megapode (*Megapodius laperouse*).	Commonwealth of the Northern Mariana Islands.	Humped tree snail only: Biosample for genetic analyses. All species: Harass by survey.	New.
TE–28609D–0	Wildlife Services, Sandusky, OH.	Nēnē, Hawaiian goose (*Branta sandvicensis*)	Hawaii	Harass by capture, handle, measure, weigh, band, attach satellite transmitter, release, and monitor.	New.

Application No.	Applicant, city, state	Species	Location	Take activity	Permit action
TE–35731D–0	Pūlama Lānai, Lānai City, HI.	Hawaiian petrel (*Pterodroma sandwichensis*)	Hawaii	Harass by survey (physical, camera, and acoustic), predator control, and salvage.	New.

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

If we decide to issue a permit to the applicants listed in this notice, we will publish a notice in the **Federal Register.**

Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Eric Hein,

Acting Assistant Regional Director—Ecological Services, Pacific Region.

[FR Doc. 2019–07595 Filed 4–16–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[19XD4523WS/DWSN00000.000000/DS61500000/DP.61501]

Notice of Public Meetings of the Invasive Species Advisory Committee

AGENCY: National Invasive Species Council, Interior.

ACTION: Announcement of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of a meeting of the Invasive Species Advisory Committee. The purpose of the Advisory Committee (ISAC) is to provide advice to the National Invasive Species Council (NISC), as authorized by Executive Orders 13112 and 13751, on a broad array of issues related to preventing the introduction of invasive species and providing for their control and minimizing the economic, ecological, and human health impacts that invasive species cause. The Council is co-chaired by the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce. The duty of the Council is to provide national leadership regarding invasive species issues. The purpose of a teleconference meeting on Thursday, May 2, 2019, is to convene the full ISAC to consider for approval the final deliverables from ISAC Class 9: (1) A white paper on the impacts of invasive ticks on human health and military readiness; and (2) a retrospective paper on the effectiveness of ISAC recommendations to NISC from 2000 to 2018. Members of the public are welcome to participate by accessing the teleconference. Other than during the public comment period, public participation is in an observer capacity. The toll-free conference phone number and access code can be obtained after registering participation through the NISC Secretariat's website, *www.invasivespecies.gov.* The meeting agenda will be available on the aforementioned website on or about April 19, 2019. Accommodation is also being made for the public to join the teleconference at the U.S. Department of the Interior Stuart Udall Building in Washington, DC. Details are provided later in **ADDRESSES** section of this notice. NOTE: The maximum capacity of the teleconference is 100 participants. For record keeping purposes, participants will be required to provide their name and contact information to the operator before being connected.

DATES: Teleconference Meeting of the Invasive Species Advisory Committee: Thursday, May 2, 2019; 1:00–3:00 p.m. (EDT).

ADDRESSES: U.S. Department of the Interior, Stuart Udall Building (MIB), 1849 C Street NW, North Penthouse, Washington, DC 20240. All visiting members of the public must be cleared through building security prior to being escorted to the meeting location. At least 48 hours prior to the meeting, please call the number listed in this notice for pre-clearance.

FOR FURTHER INFORMATION CONTACT: Kelsey Brantley, Coordinator for NISC and ISAC Operations, National Invasive Species Council Secretariat, (202) 208–4122; Fax: (202) 208–4118, email: *kelsey_brantley@ios.doi.gov.*

Stanley W. Burgiel,

Acting Executive Director, National Invasive Species Council.

[FR Doc. 2019–07780 Filed 4–16–19; 8:45 am]

BILLING CODE 4334–63–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Cardio-Strength Training Magnetic-Resistance Cable Exercise Machines and Components Thereof, DN 3380;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.*

Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of ICON Health & Fitness, Inc. on April 11, 2019. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain cardio-strength training magnetic-resistance cable exercise machines and components thereof. The complaint names as respondents: Nautilus, Inc. of Vancouver, WA; and ZheJiang Lixuan Health Technology Co., Ltd. a/k/a Zhejiang Arcanapower Health Technology Co., Ltd. a/k/a Arcana Power Co., Ltd. of China. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) Identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) Indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) Explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues should be filed no later than by close of business nine calendar days after the date of publication of this notice in the **Federal Register**. Complainant may file a reply to any written submission no later than the date on which complainant's reply would be due under § 210.8(c)(2) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(c)(2)).

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3380'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel [2], solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: April 12, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–07676 Filed 4–16–19; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov*

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1136]

Certain Obstructive Sleep Apnea Treatment Mask Systems and Components Thereof; Termination of Investigation on the Basis of Settlement

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 10), granting a joint motion to terminate the investigation on the basis of settlement. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2532. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General

information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on October 12, 2018, based on a complaint filed by Fisher & Paykel Healthcare Limited of Auckland, New Zealand (''F&P''). 83 FR 51705 (Oct. 12, 2018). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 in the importation, sale for importation, and the sale within the United States after importation of certain obstructive sleep apnea treatment mask systems and components thereof by reason of the infringement of certain claims of U.S. Patent Nos. 9,333,315; 9,517,317; 9,539,405; 9,907,925; and 9,974,914. The notice of investigation named as respondents ResMed Corp. and ResMed Inc., both of San Diego, California; and ResMed Limited of Bella Vista, Australia (collectively, ''ResMed''). The Office of Unfair Import Investigations did not participate in this investigation.

On February 22, 2019, the parties jointly moved to terminate the investigation based upon settlement.

On March 18, 2019, the presiding ALJ granted the motion as the subject ID (Order No. 10). The ID finds that the motion complies with Commission Rule 210.21, *see* 19 CFR 210.21(a)–(b), and that the settlement agreement will not adversely affect the public interest, 19 CFR 210.50(b)(2). ID at 1–2.

No petitions for review of the ID were filed.

The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: April 11, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–07661 Filed 4–16–19; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain LED Packages Containing PFS Phosphor and Products Containing Same, DN 3379;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov* . The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Current Lighting Solutions, LLC, General Electric Co., and Consumer Lighting (U.S.), LLC d/b/a GE Lighting on April 11, 2019. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain LED packages containing PFS phosphor and products containing same. The complaint names as respondents: Cree, Inc. of Durham, NC; Cree Hong Kong Ltd. of Hong Kong; and Cree Huizhou Solid State Lighting Co. Ltd. of China. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) Identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) Indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) Explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues should be filed no later than by close of business nine calendar days after the date of publication of this notice in the **Federal Register**. Complainant may file a reply to any written submission no

later than the date on which complainant's reply would be due under § 210.8(c)(2) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(c)(2)).

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3379'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel [2], solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS. [3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: April 12, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–07677 Filed 4–16–19; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0092]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Voluntary Magazine Questionnaire for Agencies/Entities Who Store Explosive Materials

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: The proposed information collection was previously published in the **Federal Register** on February 12, 2019, allowing for a 60-day comment period. Comments are encouraged and will be accepted for an additional 30 days until May 17, 2019.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, particularly with respect to the estimated public burden or associated response time, have suggestions, need a copy of the proposed information collection instrument with instructions, or desire any other additional information, please contact: Anita Scheddel, Program Analyst, Explosives Industry Programs Branch, either by mail at 99 New York Ave. NE, Washington, DC 20226, or by email at *eipb-informationcollection@atf.gov* or by telephone at 202–648–7158. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—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;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; 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 submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension, without change, of a currently approved collection.

(2) *The Title of the Form/Collection:* Voluntary Magazine Questionnaire for Agencies/Entities Who Store Explosive Materials.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: None.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: State, Local, or Tribal Government.

Other: None.

Abstract: This information collection is used to identify the number and locations of public explosives storage facilities (magazines), which will enable ATF to respond properly to local emergencies such as natural disasters.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 1,000 respondents will respond to this information collection, and it will take each respondent approximately 30 minutes to complete their responses.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 500 hours, which is equal to 1,000 (# of respondents) * 1 (# of responses per respondent) * .5 (30 minutes).

If additional information is required contact: Melody Braswell, Department

Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: April 12, 2019.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019–07672 Filed 4–16–19; 8:45 am]

BILLING CODE 4410–14–P

DEPARTMENT OF JUSTICE

Notice of Extension of Public Comment Period for Consent Decree Under The Clean Air Act

On February 8, 2019, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Northern District of Alabama in the lawsuit entitled *United States et al.* v. *Drummond Company, Inc. d/b/a ABC Coke (Drummond),* Civil Action No. 2:19–cv–00240–AKK. The United States is joined in this matter by its co-plaintiff the Jefferson County Board of Health (JCBH). At the request of members of the public, DOJ is extending the public comment period for an additional 30 days.

This case relates to alleged releases of benzene from Drummond's coke by-product recovery plant in Tarrant, Alabama (Facility). The case involves claims for civil penalties and injunctive relief under the Clean Air Act, 42 U.S.C. 7401 *et seq.,* and its implementing regulations known as National Emission Standards for Hazardous Air Pollutants (NESHAPs), including 40 CFR part 61, subpart L (Benzene Emissions from Coke By-product Recovery Plants), subpart V (Equipment Leaks and Fugitive Emissions), and subpart FF (Benzene Waste Operations), as well as related claims under laws promulgated by the Jefferson County Board of Health. The settlement resolves the alleged claims by requiring Drummond to, among other things: (1) Pay a civil penalty of $775,000 for the past alleged violations to be split equally between the United States and JCBH; (2) undertake fixes to the Facility to address the alleged violations; (3) implement a leak detection and repair program to ensure compliance and reduce potential future fugitive benzene emissions; and (4) implement a supplemental environmental project of two years of semi-annual use of an infrared camera as part of leak detection efforts at a cost of $16,000.

Notice of the lodging of the decree was originally published in the **Federal Register** on February 14, 2019. *See* 84 FR 4104 (February 14, 2019). The publication of the original notice opened a thirty (30) day period for public comment on the Decree. The public comment period was extended until April 17, 2019. 84 FR 9,560 (March 15, 2019). The publication of the present notice extends the period for public comment on the Decree to May 17, 2019.

Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States et al.* v. *Drummond Company, Inc. d/b/a ABC Coke,* D.J. Ref. No. 90–5–2–1–10717. All comments must be submitted no later than May 17, 2019. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

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Henry Friedman,

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[FR Doc. 2019–07586 Filed 4–16–19; 8:45 am]

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Copyright Royalty Board

[Docket Nos. 2012–6 CRB CD 2004–09 (Phase II) and 2012–7 CRB SD 1999–2009 (Phase II)]

Distribution of 2004, 2005, 2006, 2007, 2008, and 2009 Cable Royalty Funds; Distribution of 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, and 2009 Satellite Royalty Funds

AGENCY: Copyright Royalty Board (CRB), Library of Congress.

ACTION: Final distribution determination.

SUMMARY: The Copyright Royalty Judges announce their final determination of the distribution percentages of cable and satellite royalties in the program suppliers funds and the devotional funds for numerous years.

DATES: *Applicable date:* April 17, 2019.

ADDRESSES: The final distribution order is also published in eCRB at *https://app.crb.gov/.*

Docket: For access to the docket to read background documents, go to eCRB, the Copyright Royalty Board's electronic filing and case management system, at *https://app.crb.gov/* and search for docket number 2012–6 CRB CD 2004–09.

FOR FURTHER INFORMATION CONTACT: Anita Blaine, CRB Program Specialist, by phone at (202) 707–7658 or by email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION:

Final Determination of Royalty Distribution

I. Introduction

The Copyright Royalty Judges (Judges) initiated the captioned proceedings to determine proper distribution of royalties deposited with the Library of Congress for retransmission of broadcast signals by cable and satellite during the years 2004–2009 and 1999–2009, respectively.[1] *See* 78 FR 50113 (Aug. 16, 2013) (cable retransmissions); and 78 FR 50114 (Aug. 16, 2013) (satellite retransmissions). In the Program Suppliers category, controversies exist between MPAA-represented Program Suppliers (MPAA) and Worldwide Subsidy Group LLC d/b/a Independent Producers Group (IPG). In the Devotional category, controversies exist between the Settling Devotional Claimants (SDC)[2] and IPG. The Judges determine the funds shall be distributed as follows:

TABLE 1—DISTRIBUTION OF PROGRAM SUPPLIERS FUNDS

Year	Cable		Satellite	
	MPAA (percent)	IPG (percent)	MPAA	IPG (percent)
2000			99.54	0.46
2001			99.75	0.25
2002			99.74	0.26
2003			99.65	0.35
2004	99.60	0.40	99.87	0.13
2005	99.60	0.40	99.73	0.27
2006	99.34	0.66	99.65	0.35
2007	99.44	0.56	99.77	0.23
2008	99.28	0.72	99.78	0.22
2009	99.44	0.56	99.57	0.43

TABLE 2—DISTRIBUTION OF DEVOTIONAL FUNDS

Year	Cable		Satellite	
	SDC (percent)	IPG (percent)	SDC (percent)	IPG (percent)
1999			100.0	0.0
2000			100.0	0.0
2001			98.8	1.2
2002			98.5	1.5
2003			97.2	2.8
2004	89.1	10.9	98.8	1.2
2005	89.2	10.8	98.4	1.6
2006	87.5	12.5	91.2	8.8
2007	92.4	7.6	97.1	2.9
2008	90.2	9.8		
2009	90.0	10.0	97.9	2.1

After accounting for administrative fees, the Copyright Office Licensing Division shall distribute remaining funds, together with interest accrued on each fund balance, in such a way as to effect these distribution percentages as if they had been determined on the day following each royalty deposit and continuing until the date of each partial distribution.

The Judges make this determination for the following reasons.

II. Background

A. Posture of the Proceeding

The Judges initiated this Phase II proceeding[3] on August 16, 2013, and held a preliminary hearing to resolve disputes over the validity and categorization of claims on December 8–16, 2014. The Judges issued an order resolving claims disputes on March 13, 2015. *See Memorandum Opinion and Ruling on Validity and Categorization of Claims* (Mar. 13, 2015) (*Claims Ruling*).[4] The Judges held a hearing from April

[1] On December 22, 2015, the Judges concluded that there was no remaining controversy with respect to the 2008 satellite fund in the Devotional category and, therefore, ordered distribution of those uncontroverted funds. *See Order Granting Final Distribution of 2008 Satellite Royalties for the Devotional Category* (Jan. 13, 2016). The Judges had already determined and distributed 1999 satellite funds allocated to the Program Suppliers category when they commenced this proceeding. *See* 78 FR 50114, 50115 (Aug. 16, 2013).

[2] The SDC are comprised of Amazing Facts, Inc., American Religious Town Hall, Inc., Billy Graham Evangelistic Association, Catholic Communications Corporation, Christian Television Network, Inc., The Christian Broadcasting Network, Inc., Coral Ridge Ministries Media, Inc., Cottonwood Christian Center, Crenshaw Christian Center, Crystal Cathedral Ministries, Inc., Evangelical Lutheran Church in America, Faith for Today, Inc., Family Worship Center Church, Inc. (d.b.a. Jimmy Swaggart Ministries), International Fellowship of Christians & Jews, Inc. (cable only), In Touch Ministries, Inc., It is Written, John Hagee Ministries, Inc. (a.k.a. Global Evangelism Television), Joyce Meyer Ministries, Inc. (f.k.a. Life in the Word, Inc.), Kerry Shook Ministries (a.k.a. Fellowship of the Woodlands), Lakewood Church (a.k.a. Joel Osteen Ministries), Liberty Broadcasting Network, Inc., Messianic Vision, Inc., New Psalmist Baptist Church, and Oral Roberts Evangelistic Association, Inc.

[3] The Judges determined the Phase I allocation of cable royalties among the claimant categories for 2004 and 2005 after an evidentiary hearing. *See Distribution of the 2004 and 2005 Cable Royalty Funds,* 75 FR 57063 (Sept. 17, 2010). Representatives of the claimant categories negotiated a confidential settlement of Phase I allocation of cable royalties for the remaining years in the proceeding and of satellite royalties for all years in the proceeding.

[4] IPG filed four separate motions seeking modifications to the *Claims Ruling.* The Judges granted relief in response to two of them. The Judges modified the *Claims Ruling* on April 9, 2015, to reinstate IPG's claims on behalf of a claimant it represents in the Devotional category for 2001–02 and 2004–09 and modified the *Claims Ruling* again on October 27, 2016, to credit IPG with one claimant the Judges had previously dismissed for the 2008 satellite royalty year. *See Order on IPG Motions for Modification,* at 5 (Apr. 9, 2015) (*April 9 Order*); *Order Granting IPG Fourth Motion for Modification of March 13, 2015 Order,* at 1–2 (Oct. 27, 2016). The Judges considered and denied the other two IPG motions to modify the *Claims Ruling. See April 9 Order,* at 2–5; *Order Denying IPG Third Motion for Modification of March 13, 2015 Order* (June 1, 2016). In its proposed findings, IPG claimed that MPAA's expert, Dr. Gray, ''automatically awarded'' programs to MPAA in computing royalty shares when there were competing claims between MPAA and IPG. IPG PFF ¶ 24. IPG's criticism is misplaced. Dr. Gray testified that he incorporated the *Claims Ruling* (as subsequently modified) into his analysis. 4/10/18 Tr. 414–16 (Gray). IPG's complaint is with the *Claims Ruling,* not with Dr. Gray's methodology.

13–17, 2015, in which they received evidence and expert testimony concerning the proper distribution of royalties in the categories at issue in this proceeding. In accordance with 37 CFR 351.12, at the conclusion of the hearing and after closing arguments of counsel, the Chief Judge announced the end of presentation of evidence and closed the record, apart from allowing an exception for parties to file corrected and redacted exhibits in accordance with the Judges' rulings during the hearing and after the hearing based on filed and pending evidentiary motions. *See* 4/17/15 Tr. at 285.

After considering the entire record in the proceeding, the Judges found that no party had ''presented a methodology and data that, together, are sufficient to support a final distribution in the contested categories.'' *Order Reopening Record and Scheduling Further Proceedings,* at 1 (May 4, 2016) (*Order Reopening Record*). The Judges set aside the participants' evidence, reopened the record, and directed the parties to present additional evidence and expert opinion.[5] *Id.* at 2. The Judges permitted the participants to reintroduce any previously-introduced evidence and to designate prior testimony in accordance with 37 CFR 351.4(b)(2). *Id.* at 8.

The participants filed Written Direct Statements (WDSs) in the reopened proceeding on August 22, 2016. Shortly thereafter, the SDC filed a notice consenting to distribution of satellite royalties in the Devotional category in accordance with IPG's proposed royalty shares. *See Notice of Consent to 1999–2009 Satellite Shares Proposed By Independent Producers Group and Motion for Entry of Distribution Order* (Aug. 26, 2016) (Notice and Motion). IPG responded by opposing the *Notice and Motion* and filing an Amended WDS (AWDS) in which its economic expert, Dr. Charles Cowan, revised his written report and changed his proposed royalty shares. In response to motions by the SDC and MPAA, the Judges struck IPG's AWDS for failing to comply with the Judges' procedural rules. *See Order Granting MPAA and SDC Motions to Strike IPG Amended Written Direct Statement and Denying SDC Motion for Entry of Distribution Order* (Oct. 7, 2016) (*Oct. 7 Order*).[6] Specifically, the Judges determined that IPG could not file its AWDS as of right, had failed to file a motion requesting leave to file an AWDS, and failed to explain how its AWDS differed from its WDS. *See id.* at 3–4. IPG subsequently sought leave to file an AWDS, renewing the arguments it had made in opposition to the SDC's and MPAA's motions to strike. The SDC and MPAA opposed IPG's motion. The Judges accepted IPG's AWDS and granted the SDC and MPAA an additional opportunity to conduct discovery related to the AWDS. *See Order on IPG Motion for Leave to File Amended Written Direct Statement* (Jan. 10, 2017) (*Jan. 10 Order*).[7]

The SDC and MPAA filed Written Rebuttal Statements (WRSs) on December 15, 2017, in accordance with the Judges' procedural schedule. IPG elected not to file a WRS, filing a ''notice'' instead. IPG had initiated a collateral attack on the Judges' interlocutory *Claims Ruling* in U.S. District Court on December 8, 2017, and was seeking a temporary restraining order to stay this proceeding.[8] In addition, IPG had filed a motion on December 11, 2017, with the Judges seeking a stay of their proceeding. Neither of those motions had been resolved as of the due date for WRSs.[9] IPG thus did not submit or seek admission of any rebuttal testimony in the reopened proceeding.

Shortly before the scheduled rehearing in the reopened proceeding, MPAA and the SDC filed a joint Motion *in Limine* and Motion for Summary Disposition seeking to exclude all exhibits proposed by IPG and to conclude the proceeding summarily. *See Order Granting in Part Joint Motion in Limine and Denying Joint Motion for Summary Judgment,* at 1 (Apr. 6, 2018) (*Order on Motion in Limine*). The moving parties sought to exclude the written direct testimony[10] of Dr. Cowan, IPG's expert (and sole) witness, because he would not be available to testify in person, and would not, therefore, be subject to cross-examination by opposing counsel.[11] The moving parties sought to exclude the remaining IPG exhibits, which consisted entirely of designated prior testimony of witnesses in past distribution proceedings, because IPG failed to comply with the Judges' procedural rule governing submission of designated prior testimony.[12] *Id.* at 2. The Judges excluded Dr. Cowan's written testimony and all of IPG's proffered exhibits, except to the extent that IPG might use the testimony and exhibits in cross-examining MPAA's and the SDC's witnesses. *Id.* at 2–3, 5; 4/9/18 Tr. 146–47 (Barnett, C.J.).

The Judges construed the moving parties' request for summary disposition as a request to conduct a paper proceeding in accordance with 17 U.S.C. 803(b)(5)(B). The Judges denied the request, concluding that, in light of the failure of proofs by all parties that necessitated the reopened proceeding, it would be appropriate for the Judges to take live testimony, and allow IPG to cross-examine witnesses, in order to determine whether the moving parties' respective second attempts at constructing distribution methodologies were adequate. *Order on Motion in Limine,* at 4.

The Judges held a hearing in the reopened proceeding on April 9–10, 2018, and heard closing arguments on May 24, 2018. The record now before the Judges consists of the oral testimony of the witnesses presented by MPAA and the SDC at that hearing, together with all exhibits admitted at the hearing (including any properly designated testimony from the earlier hearing or prior proceedings). IPG did not present any witnesses, and, pursuant to the

[5] After the parties filed corrected and redacted exhibits, MPAA and the SDC filed a motion asking the Judges to disregard two of IPG's hearing exhibits because IPG allegedly failed to redact them properly. *See* Settling Devotional Claimants' and MPAA-Represented Program Suppliers' Objections to Consideration of Exhibits Submitted by IPG that were not Properly Redacted (Sept. 15, 2015). In light of the Judges' decision to set aside all of the participants' evidence, the Judges DENY this motion as moot.

[6] In the filings concerning IPG's AWDS, Dr. Cowan explained, ''after preparation of the August 22nd report, IPG's counsel immediately inquired about the produced results, and during the course of the next week [Dr. Cowan] discovered errors in the earlier processing of the data.'' IPG's counsel stated that he ''did not review or consider'' his expert's report prior to submitting it to the Judges purportedly to avoid allegations that IPG had ''straightjacketed'' its witness. IPG Opposition to MPAA Motion to Strike IPG's Amended Direct Statement, at 3 n.4. (Sept. 12, 2016); *See Oct. 7 Order,* at 4 & n.5.

[7] Based on the totality of IPG's conduct in relation to Dr. Cowan's report, and the apparent prejudice to the SDC and MPAA, the Judges permitted the SDC and MPAA to file ''individual motions or a joint motion with authoritative legal analysis addressing the Judges' authority, if any, to impose financial or other sanctions in this circumstance in which a party has disregarded (or negligently or purposely misinterpreted) the Judges' procedural rules without explanation or plausible justification.'' *Jan. 10 Order,* at 7. MPAA and the SDC filed separate sanctions motions. The Judges subsequently denied these motions. Order Denying MPAA and SDC Motions for Sanctions (March 12, 2019).

[8] *Worldwide Subsidy Group* v. *Hayden,* 17–cv–02643 (D. D.C. filed Dec. 8, 2017).

[9] The Judges denied IPG's motion for a stay of proceedings on January 4, 2018. *See Order Denying Independent Producers Group's Emergency Motion for Stay of Proceedings* (Jan. 4, 2018). IPG voluntarily dismissed its complaint in the collateral action in federal district court on January 11, 2017.

[10] IPG did not file a timely Written Rebuttal Statement, and thus did not seek admission of any rebuttal testimony.

[11] The moving parties alleged (and IPG did not dispute) that IPG informed them of Dr. Cowan's unavailability on April 2, 2018, seven days before the scheduled hearing. IPG did not apprise the Judges of the reason for Dr. Cowan's failure to appear, ascribing it to ''his own reasons.'' *Order on Motion in Limine,* at 1.

[12] 37 CFR 351.4(b)(2).

Order on Motion in Limine, the Judges admitted no IPG exhibits.

The Judges issued an Initial Determination on January 22, 2019. No participant filed a timely petition for rehearing. Consequently, this Final Determination is identical in substance to the Initial Determination.

B. Legal Standard for Distribution

The Copyright Act does not contain a statutory standard for apportioning cable and satellite royalty funds among claimants. The Judges and their predecessors, however, have long held that royalties should be awarded in accordance with the relative marketplace value of the programming. *See Distribution of the 2000, 2001, 2002 and 2003 Cable Royalty Funds: Final Distribution Order,* 78 FR 64984, 64986 (Oct. 30, 2013) (*2000–03 Cable Determination*).[13] Pursuant to 17 U.S.C. 803(a)(1), the Judges act ''in accordance with'' these prior decisions. The Judges look to ''hypothetical, simulated, or analogous markets'' to assess relative marketplace value, since there is no actual, unregulated marketplace for retransmission of broadcast signals by cable and satellite. *2000–03 Cable Determination,* 78 FR at 64986.

Under applicable precedent, the Judges are not required to identify a methodology that would allow them to distribute cable and satellite royalties with ''mathematical precision.'' *Id.* (citing *National Ass'n of Broadcasters* v. *Librarian of Congress,* 146 F.3d 907, 929 (D.C. Cir. 1998)). The Judges' distribution determinations must instead lie within a ''zone of reasonableness.'' *See National Ass'n of Broadcasters,* 146 F.3d at 929; *see also Asociacion de Compositores y Editores de Musica Latino Americana* v. *Copyright Royalty Tribunal,* 854 F.2d 10, 12 (2d Cir. 1988) (recognizing ''zone of reasonableness'' standard in Phase II royalty distribution proceedings); *Christian Broadcasting Network, Inc.* v. *Copyright Royalty Tribunal,* 720 F.2d 1295, 1304 (D.C. Cir. 1983).

III. Use of Evidence of Viewership To Determine Relative Marketplace Value

IPG vigorously attacked the use of viewership evidence for determining relative market value of programming. Since both MPAA and the SDC utilize methodologies based on viewership evidence, the Judges consider these arguments together, before considering the methodologies individually.

Expert witnesses for MPAA and the SDC testified that relative viewership is an appropriate metric for determining relative marketplace value in this proceeding. *See* Written Direct Testimony of Erkan Erdem, Trial Ex. 7000, at 8–9, 12 (Erdem WDT); Written Direct Testimony of Jeffrey S. Gray, Trial Ex. 8002, ¶¶ 17–18 (Gray WDT); and Written Direct Testimony of John S. Sanders, Trial Ex. 7001, at 21 (Sanders WDT). MPAA and the SDC both argue that the Judges have previously relied on viewership evidence to apportion royalties among copyright owners in Phase II distribution proceedings. *See* SDC PFF ¶ 24 (citing *2000–03 Cable Determination* and *Distribution of 1998 and 1999 Cable Royalty Funds,* 80 FR 13423 (Mar. 13, 2015) (*1998–99 Phase II Cable Determination*)); MPAA PCOL ¶ 15 (citing *2000–03 Cable Determination*).

IPG, on the other hand, argues that the Judges are barred by precedent from determining relative marketplace value based on viewership evidence. *See, e.g.,* IPG PFF ¶ 132. IPG bases its argument on the rejection of viewing evidence by a Copyright Arbitration Royalty Panel (CARP) in the 1998–99 Phase I cable royalty distribution proceeding, and the Librarian of Congress' statement in his opinion adopting the panel decision that ''[t]he Nielsen study was not useful because it measured the wrong thing.'' Final Order, Docket No. 2001–8 CARP CD 98–99, 69 FR 3606, 3613 (Jan. 26, 2004) (*1998–99 Librarian Order*). IPG has made the same argument in past Phase II proceedings. *See, e.g.,* IPG PFF, Docket No. 2008–1 CRB CD 98–99 (Phase II), at 32 (Sept. 23, 2014); and IPG PFF in connection with Program Suppliers Category, Docket No. 2008–2 CRB CD 2000–2003 (Phase II), at 32 (June 14, 2013). The Judges have rejected IPG's argument on each occasion, *see, e.g., Distribution of 1998 and 1999 Cable Royalty Funds,* 80 FR 13423, 13433 (Mar. 13, 2015) (*1998–99 Phase II Cable Determination*); *2000–03 Cable Determination,* 78 FR at 64995, and do so again in this proceeding.

The Copyright Act requires the Judges to act ''on the basis of prior determinations and interpretations of the Copyright Royalty Tribunal, Librarian of Congress, the Register of Copyrights, copyright arbitration royalty panels . . ., and the Copyright Royalty Judges . . . .'' 17 U.S.C. 803(a)(1). As the Judges have recently had occasion to confirm, the *1998–99 Librarian Order* and the CARP report that it adopted are in the nature of '' 'precedent' that the Judges must consider . . . .'' *Initial Determination of Royalty Allocation,* Docket No. 14–CRB–0010–CD (2010–13), at 96 (Oct. 18, 2018) (*2010–13 Cable Allocation Determination*) (footnote omitted).[14] However, the Judges conclude, consistent with *1998–99 Phase II Cable Determination* and the *2000–03 Cable Determination,* that those prior decisions in no way preclude the Judges from accepting a distribution methodology founded on Nielsen viewing data.

The Judges have ruled in more recent proceedings that measurements of viewership *are* relevant to determining relative market value. *See 2010–13 Cable Allocation Determination* at 97; *1998–99 Phase II Cable Determination,* 80 FR at 13433; and *2000–03 Cable Determination,* 78 FR at 64995. ''[V]iewership can be a reasonable and directly measurable metric for calculating relative market value in cable distribution proceedings. Indeed . . . viewership is the initial and predominant heuristic that a hypothetical CSO would consider in determining whether to acquire a bundle of programs for distant retransmission . . ..'' *2000–03 Cable Determination,* 78 FR at 64995. Put another way, a CSO's demand for programming derives from consumers' desire to view the programming.

> Consumers subscribe to cable in order to watch the programming carried on the various channels provided by the cable operator. Cable operators acquire broadcast and cable channels that carry programming their subscribers want to view. Broadcasters acquire programs that will attract viewers. Viewing is the engine that drives the entire industry. It is an example of the economic concept of derived demand. The demand for programming at each step in the chain is derived from demand further along the chain, all the way to the television viewer.

2010–13 Cable Allocation Determination, at 97 (footnote omitted); *see also* Erdem WDT at 8–9; 4/9/18 Tr. 90–91, 94 (Erdem).

The cases that IPG cites stand for the proposition that the Judges decline to apportion royalties *among program categories* solely based on viewership studies. As the Judges clarified recently, they do so, *not* because those studies ''measure[] the wrong thing,'' but because, standing alone, they are

[13] IPG appealed certain portions of the *2000–03 Cable Determination.* The U.S. Circuit Court for the D.C. Circuit remanded for further consideration the Judges' determination relating to distribution of devotional programming royalties. The remand did not have any impact on the determination relating to distribution of Program Suppliers' royalties.

[14] The Judges also noted that ''[t]he decision whether or not to accept a methodology for determining relative market value is factually-dependent, so it is a misnomer to describe a previous decision declining to rely on viewership as 'precedent'—*i.e.,* controlling under the principle of *stare decisis.* Nevertheless, it is a 'prior determination' 'on the basis of' which Congress has directed the Judges to act (along with the written record and other items enumerated in the statute).'' *Id.* at 96 n.165.

''inadequate'' measures of relative value when comparing heterogeneous program categories. *2010–13 Cable Allocation Determination,* at 118. In the 2010–13 proceeding, the parties presented evidence that ''cable operators will pay substantially more for certain types of programming than for other programming with equal or higher viewership.'' *Id.* Evidence of viewership alone fails adequately to ''explain the premium that certain types of programming can demand in the marketplace.'' *Id.* Consequently, the Judges have looked to other evidence, such as CSO surveys and fee-based regression analyses, to inform their allocation of funds among categories.

As the D.C. Circuit has acknowledged, however, ''different considerations apply in Phase I and Phase II proceedings.'' *Indep. Producers Grp.* v. *Librarian of Congress,* 792 F.3d 132, 142 (D.C. Cir. 2015) (*IPG* v. *Librarian*); *see also Distribution of 1993, 1994, 1995, 1996 and 1997 Cable Royalty Funds,* 66 FR 66433, 66453 (Dec. 6, 2001) (allocation methodology used in Phase I proceeding ''does not translate well to a Phase II proceeding dealing with one program category'') (*93–97 Librarian Order*). In a Phase II (or distribution phase) proceeding, the Judges must apportion royalties among relatively homogenous programs within a program category. The ''premium'' that some categories of programming can demand, irrespective of their levels of viewership, does not enter into the picture when all of the programs are in the same category. Thus, in distribution phase proceedings, the Judges have determined and continue to determine relative marketplace value based on evidence of viewership.

That is not to say that viewership evidence alone is an optimal means of determining relative market value. The Judges have acknowledged that viewership evidence may be ''subject to marginal adjustments needed to maximize subscribership.'' *2000–03 Cable Determination,* 78 FR at 64995. Nevertheless, the Judges have found viewership evidence to be an acceptable alternative in the absence of evidence ''by which to establish the relative marketplace values of . . . programs in the optimal theoretical manner.'' *1998–99 Phase II Cable Determination,* 80 FR at 13432. The Judges may, however, make appropriate adjustments to proposed allocations based on viewership evidence, provided those adjustments are supported by other record evidence.

In short, the authorities on which IPG relies—the *1998–99 Librarian Order* and the CARP report that it adopted—are not on point. The Judges will follow the precedents from Phase II distribution cases and consider viewership evidence in apportioning royalties among programs within programming categories.

IV. Distribution of Royalties in the Program Suppliers Category

A. MPAA's Methodology

MPAA's proposed apportionment of royalties in the Program Suppliers category is in proportion to the respective number of hours that cable and satellite subscribers viewed MPAA-represented and IPG-represented programs on a distant basis. *See* Gray WDT at 4. Generally, MPAA added the hours of distant viewing of MPAA-represented programs and divided by the total number of distant viewing hours for both MPAA- and IPG-represented programs to determine the MPAA share. *See id.* ¶ 49.

MPAA's expert, Dr. Gray, derived levels of distant viewing from three types of Nielsen data: Local ratings viewing data [15] collected from meters recording from 2000 to 2009; distant viewing data from viewer diaries recorded from 2000 to 2003; and distant viewing household metered data from 2008 to 2009. *See id.* ¶¶ 29–31. Because of cost considerations in obtaining the Nielsen and Gracenote data for all stations distantly retransmitted by CSOs and satellite carriers in every royalty year, for most of the royalty years, Dr. Gray selected a sample of stations retransmitted by CSOs and satellite carriers based on a stratified random sampling methodology.[16] *See id.* ¶ 26. Dr. Gray used data from Gracenote, Inc.[17] and program logs from the Canadian Radio-television and Telecommunications Commission (CRTC) to identify compensable MPAA and IPG programming carried on the sample stations. *See id.* ¶¶ 32, 35.

MPAA did not supply Dr. Gray with Nielsen custom analyses[18] of distant viewing for all of the years covered in this proceeding. *See* Gray WDT ¶ 28 (''both due to cost and time, among other constraints, custom analyses of certain types of Nielsen data were not available for all royalty years''). Because he did not have distant household viewing data for every year, Dr. Gray devised a methodology to predict levels of distant viewing using the data that MPAA made available to him. He ''establish[ed] a mathematical relationship between local ratings and distant viewing levels for the years the data are available'' and ''extrapolate[d] that mathematical relationship using a regression analysis to estimate distant viewing for all compensable programs each year . . ..'' Gray WDT ¶ 36; *see also id.* ¶ 47 (regression calculates ''mathematical relationship between distant viewing and (1) local ratings for the program, (2) the total number of distant subscribers of that station, (3) the time of day the program aired by quarter hour, (4) the type of program aired, (5) the station affiliation the program aired on, and (6) the aggregate total fees paid by CSOs or satellite carriers in [sic] year the program aired''). Dr. Gray then replaced the actual viewing data with the values for distant viewership his regression model predicted, to compute viewership (and thus royalty) shares. *See id.* ¶ 49.

B. IPG's Criticisms of MPAA's Methodology

1. Dr. Gray Relied on an Inadequate Amount of Data

IPG argued that the Judges should reject MPAA's methodology because Dr. Gray relied on an ''unreasonably small amount of data'' [19] in computing royalty

[15] Local ratings are the percentage of television-viewing households in a particular station's designated market area (DMA) that tune to that station.

[16] Stratified random sampling is a statistical technique that permits oversampling of elements with a given characteristic while still allowing for valid statistical inferences about the universe of elements as a whole. Items that are selected with a lower probability of selection are given a higher weight to adjust for the differing probability of selection. *See* discussion in *Initial Determination of Royalty Allocation,* Docket No. 14–CRB–0010–CD (2010–13), at 89 (Oct. 18, 2018) *(2010–13 Initial Allocation Determination*). In this proceeding, Dr. Gray sampled stations with many distant subscribers (which he identified using Statement of Account (SOA) data from Cable Data Corporation (CDC)) ''with certainty'' whereas stations with ''few'' distant subscribers were selected ''with lower probability.'' *See* Gray WDT ¶ 26 & n.27; 4/10/18 Tr. 384–85 (Gray).

[17] Gracenote is the successor to Tribune Media, Inc. an entity in the business of producing a database of television programming information. In their testimony, the experts in this proceeding occasionally used ''Gracenote'' and ''Tribune'' interchangeably.

[18] A ''custom analysis,'' as the name suggests, is an analysis that Nielsen conducts at a specific client's request, of data that Nielsen has already collected. This is in contrast to ''custom research,'' where Nielsen collects data at a specific client's request. *See* Designated Testimony of Paul Lindstrom, Docket No. 2008–02 CRB CD 2000–2003 (Phase II), Trial Ex. 8014, at 282–83 (Lindstrom 2000–03 Oral Testimony). Nielsen refers to reports that it prepares for multiple clients as ''syndicated products.'' 4/10/18 Tr. 312 (Lindstrom).

[19] Elsewhere in its proposed findings IPG claimed that Dr. Gray's conclusions were ''[b]ased on approximately 6% of the *distant* retransmitted broadcasts from 2000–2003, and 6% of *distant* retransmitted broadcasts from 2008–2009 . . ..'' *Id.* ¶ 25. IPG purported to reach this conclusion by counting only broadcasts with positive viewing measurements in the Nielsen data. *Id.* IPG offered no evidence or expert analysis to support this 6% number (which was apparently computed by IPG's

shares. IPG PCL ¶ 134; *see id.* ¶¶ 19–22. Specifically, IPG argued that Dr. Gray failed to supplement his original methodology with enough additional data to overcome the Judges' earlier objection [20] that his proposed royalty shares were supported by insufficient data. *See* IPG PFF ¶¶ 20–22. IPG stated that ''[i]n response to the Order Reopening Record, the only change to Gray's analysis was the addition of Nielsen 2008–2009 National People Meter distant viewing data. No data was added for calendar years 2004–2007.'' *Id.* ¶ 20 (citations omitted). IPG asserted, ''MPAA could have performed a National People Meter distant viewing analysis for each of the years 2000–2009, but contended that it was 'difficult' but not 'impossible' given the three-month timeframe afforded by the Judges . . ..'' *Id.* ¶ 21 (citations omitted).

MPAA responded that IPG mischaracterized the record. MPAA noted that in addition to incorporating an additional two years' metered distant viewing data (for both cable and satellite) into his analysis, Dr. Gray ''also modified his regression specification to address the Judges' concerns set forth in their May 4, 2016 Order.'' MPAA Reply PFF ¶ 6 (citing 4/10/18 Tr. 393–94 (Gray)). By adding the additional two years of data to his cable analysis, Dr. Gray increased the number of distant viewing observations used in his regression analysis from 1.68 million to 3.86 million (the increase for satellite was ''a similar order of magnitude''). *See* 4/10/18 Tr. 395–96 (Gray). As to the availability of additional distant viewing data for 2004–2007, Dr. Gray testified that it was ''nearly impossible to attain.'' *Id.* at 396 (Gray).

In the *Order Reopening Record,* the Judges stated that they could not rely upon MPAA's viewership-based methodology without either ''contemporaneous data (whether local ratings and distant viewership data, as Dr. Gray utilized, or other data and analysis that might underlie a modified methodology); or (2) competent evidence that persuades the Judges that such data are not needed to produce reliable results . . ..'' *Order Reopening Record* at 4.

Dr. Gray modified his methodology in response to the *Order Reopening Record.* Most notably, he added two years of contemporaneous distant viewing data, increasing the number of distant viewing observations by approximately 130%. Dr. Gray testified that the addition of the contemporaneous distant viewing data resulted in little change to his regression-based viewing estimates:

> I would view the estimates as reasonably similar. For example, in 2004 . . . the estimate [of MPAA's share of distant viewing] increases from 99.59 [percent] to 99.60 [percent] when also using the contemporaneous distant viewing data.
>
> And then for satellite, in 2004, actually there is no impact. The satellite estimate remains at 99.87 with or without the additional contemporaneous data.

4/10/18 Tr. 399 (Gray). Dr. Gray testified further that these results ''comported with'' his expectation that the additional data would not change his estimates significantly: ''[E]ven based upon the 2000–2003 analysis, that . . . estimated a relationship between distant viewing and a host of factors, local ratings being one of them . . . that mathematical relationship I did not expect to change much over time, particularly to the advantage or disadvantage to one party.'' *Id.* at 399–400. Dr. Gray also testified that, in his opinion, based on the foregoing analysis, the absence of distant viewing data for 2004–2007 did not render his analysis unreliable. *Id.* at 397.

The Judges find that Dr. Gray's analysis, and the reasonable proximity of his current results to his previous results (*i.e.,* those without the benefit of the 2008–09 distant viewing data), constitute competent evidence that persuades the Judges that further contemporaneous distant viewing data are not needed to produce reliable estimates of distant viewing shares. The Judges reject IPG's contention that Dr. Gray relied on an inadequate amount of data.[21]

2. Dr. Gray Supplanted Viewing Data With Regression Results

IPG criticized Dr. Gray's analysis for relying on a ''sliver of data,'' then ''supplant[ing]'' those data with regression-based predictions of distant viewing. *See* IPG PFF ¶¶ 25–37.

As discussed in the preceding section, the Judges reject IPG's contention that Dr. Gray relied on an inadequate amount of data. As to Dr. Gray's use of regression-based predictions of distant viewing, IPG has presented no evidence or expert analysis that even suggests that this approach is improper or unreliable. Moreover, the Judges have relied on a similar approach that Dr. Gray presented on MPAA's behalf in an earlier Phase II distribution proceeding. *See 2000–03 Cable Determination,* 78 FR at 64994–98, 65002–03. IPG has provided the Judges with no basis for rejecting that approach in the instant proceeding.

In the course of IPG's discussion of Dr. Gray's ''supplanting'' of distant viewing observations with regression-based predictions, IPG also pointed out that Dr. Gray used imputed values for local ratings whenever the Nielsen data did not include ratings measurements. *See* IPG PFF ¶¶ 26–28. IPG noted that, during the period covered by this proceeding, Nielsen produced meter-based local ratings only in the ''56 largest U.S. markets.'' *Id.* ¶ 27. IPG stated, ''Gray only had local ratings data from 56 markets, and conspicuously failed to clarify what number of the 122 sampled cable retransmitted stations were covered by such markets.'' However, IPG presented no analysis that would explain whether—much less how and why—these observations are problematic or diminish the reliability of Dr. Gray's methodology. The Judges, therefore, give no weight to IPG's observations concerning Dr. Gray's imputation of local ratings in certain markets.

3. The MPAA Methodology Fails To Measure Relative Market Value

IPG argued that Dr. Gray, in his live testimony, admitted that the MPAA methodology failed to measure relative market value. IPG PFF at 18. According to IPG, ''[Dr.] Gray actually constructed his methodology on the incorrect assumption that the willing seller is the copyright owner and the willing buyer is the broadcast station, *i.e., not a CSO/SSO.*'' *Id.* ¶ 39. IPG noted that the Judges have previously found that, in determining the relative market value of programming, the seller in the hypothetical market is the copyright owner and the buyer is the Cable System Operator (CSO) or Satellite System Operator (SSO). *Id.* ¶ 42 (citing *Distribution of 1998 and 1999 Cable Royalty Funds,* 69 FR 3606, 3613 (Jan. 26, 2004) (*1998–1999 Phase I Determination*)).

In his live testimony, Dr. Gray sought to elaborate on the nature of the hypothetical market for retransmission of television programming absent the

counsel), and Dr. Gray testified that it was incorrect. *See* 4/10/18 Tr. 427–29. Nor did IPG offer any evidence or expert analysis to support its implicit equating of zero-measured-viewing observations with missing data.

[20] *See Order Reopening Record* at 2–4.

[21] In the *Order Reopening Record,* the Judges also noted a dispute between Dr. Gray and IPG's expert in the original evidentiary hearing concerning Dr. Gray's regression specification and his use of a ''base year.'' *Order Reopening Record* at 4 n.5. The Judges stated their intention of addressing the substance of that dispute ''if this issue remains outstanding in the parties' submissions in the reopened proceedings . . ..'' *Id.* Dr. Gray testified that he modified his regression specification in a manner that, in his opinion, resolved the dispute. 4/10/18 Tr. 394 (Gray). In the absence of any contrary rebuttal evidence, the Judges find no basis to pursue the issue further.

compulsory licenses in sections 111 and 119.[22] Dr. Gray described a hypothetical market in which broadcast stations would, in essence, act as middlemen between copyright owners on one hand and cable and satellite operators on the other. In Dr. Gray's opinion as an economist, broadcast stations in an unregulated market would ''pay for the right to transmit [programming] in its local market and then pay a surcharge for the right to retransmit to a cable system or satellite system.'' 4/10/18 Tr. 456 (Gray). The broadcast station will then ''seek to recoup its surcharge in its transactions with the cable system and the satellite system.'' *Id.* at 457.

IPG contended that, because of Dr. Gray's views concerning the role of broadcasters in the hypothetical market, he concluded, ''[V]iewership ratings are significant because they are what a *broadcaster* considers significant.'' IPG PFF ¶ 41. That is not what Dr. Gray actually said in his testimony. Dr. Gray testified that in an unregulated market cable and satellite systems would be ''negotiating to retransmit the bundled signal, and they will do that in proportion to how much it is going to be valued by the subscriber, as evidenced by distant viewing.'' 4/10/Tr. 457 (Gray). In essence, Dr. Gray was repeating the argument that underlies the use of viewership evidence to determine relative market value, which the Judges discussed, *supra,*[23] The Judges are not persuaded by IPG's further attempt to discredit viewership evidence.

4. Dr. Gray Injected Impermissible Factors Into his Analysis

IPG argued that ''Dr. Gray disregard[ed] the premise of the 'Program Suppliers' program categorization, and his own stated premise, by injecting impermissible factors into his analysis that have a 'significant' effect on the regression analysis and his predicted distant viewership.'' IPG PFF at 21. Noting that Dr. Gray described the Program Suppliers category as ''relatively homogenous,'' IPG contended that Dr. Gray's use of explanatory variables for, *e.g.,* Tribune Media program type and station affiliation were inconsistent with that description and, thus, improper. *Id.* ¶¶ 48–53. IPG did not present any evidence or expert analysis to support that contention, and the Judges therefore reject it.

5. Dr. Gray Relied on Nielsen Data That Contain an Excessive Amount of ''Zero Viewing'' Without Adequate Explanation

IPG argued that the levels of ''zero viewing''[24] in the Nielsen data that Dr. Gray relied on render his analysis unreliable. *See* IPG PFF ¶¶ 54–67; *see also id.* ¶¶ 29–31. IPG relies on the *93–97 Librarian Order* to argue that the Judges are precluded from relying on Nielsen's viewing measurements.

IPG stated that MPAA's expert witness, Dr. Gray, ''acknowledged that for Nielsen distant diary data, only sixteen weeks of sweeps data was utilized, with approximately 80% average zero viewing.'' IPG PFF ¶ 60. IPG then argued that ''[m]athematically . . . this constitutes 94% zero viewing (16 weeks × .8 plus 36 weeks × 0.0 [*sic*][25] /52 = 94% zero viewing).'' *Id.* IPG compares this purported zero viewing percentage unfavorably with levels of zero viewing that the Librarian found unacceptable in the *93–97 Librarian Order. See id.* ¶ 56.

IPG's assertions regarding the levels of zero viewing in the data underlying the respective methodologies are without evidentiary basis. IPG's reliance on Dr. Gray's testimony is entirely misplaced: Dr. Gray did not ''acknowledge'' IPG's estimate of 80% average zero viewing for the sweeps periods. More importantly, Dr. Gray testified that it is improper to impute zero values to periods not covered by the Nielsen data, as IPG's counsel attempted to do. *See* 4/10/19 Tr. 428–31 (Gray).

IPG failed to demonstrate the existence of a high incidence of zero viewing. The Judges, therefore, need not reach the question whether MPAA has ''demonstrate[d] ''the causes for the large amounts of zero viewing and explain[ed] in detail the effect of the zero viewing on the reliability of the results'' of its methodology. *93–97 Librarian Order,* 66 FR at 66450.[26]

6. MPAA's Methodology Uses a Time-of-Day Indicium That the Judges Previously Rejected

IPG argued that Dr. Gray included the time of day, broken down into six dayparts, as part of his methodology for determining relative market value. *Id.* ¶ 70. IPG contends that the use of dayparts was one reason the Judges rejected IPG's proposed methodology in the *Order Reopening Record,* and should reject MPAA's methodology for the same reason. *See id.*

Dr. Gray used local ratings as an input in his regression analysis. In cases in which local ratings were unavailable because programs were broadcast outside Nielsen metered markets, he used imputed values. *See supra,* section IV.B.2; Gray WDT ¶ 48 n.41. The imputed values were ''the average local ratings of retransmitted programs of the same type broadcasting during the same time of day.'' *Id.* Dr. Gray defined six time- of-day categories, and computed average ratings for the various Tribune program types (*e.g.,* ''Game Show,'' ''Movie,'' or ''Network Series''). *Id.* ''For example, a Network Series program broadcasting at 9 p.m. with no local ratings information is given the average local rating of all Network Series programs broadcasting between 8 p.m. and 11 p.m.'' *Id.* Dr. Gray used the imputed ratings values, together with Nielsen metered ratings and other data points in his regression analysis to predict the distant viewing values that he aggregated and used in computing relative market value.

By contrast, in the methodology the Judges rejected in the *Order Reopening Record,* IPG used the time of day that a program was broadcast as one of a number of ''indicia of economic value,'' along with program length, fees paid, and number of subscribers. *See* Written Direct Testimony of Dr. Laura Robinson, ¶ 10 (Robinson WDT). Dr. Robinson's use of time of day was different from Dr. Gray's use of time of day. The Judge's ruling in the *Order Reopening Record* is not directly on point, and IPG has presented no evidence or expert analysis that would lead the Judges to conclude that the Judges should apply their earlier criticism to cover the present circumstances.

7. Dr. Gray Impermissibly Mixed Nielsen Metered Data and Diary Data in his Methodology

IPG asserted that, by using both Nielsen meter data and diary data in his methodology, Dr. Gray violated ''a clear edict . . . that doing so invalidated the

[22] Dr. Gray discussed this conception of the hypothetical market in greater detail in a recent allocation phase cable distribution proceeding. *See Final Determination of Royalty Allocation,* Docket No. 14–CRB–0010 CD (2010–13), at 80–81 (Dec. 18, 2018). The Judges did not rely upon Dr. Gray's testimony in the 2010–13 allocation proceeding in this proceeding.

[23] *See supra,* section III (derived demand factors transmitted through broadcast stations as buyers-resellers of distant retransmission rights in hypothetical market).

[24] IPG defines ''zero viewing'' as ''the percentage occurrence of unmeasured viewing on a *broadcast-by-broadcast* basis.'' IPG PFF ¶ 108. Although IPG cites to the *93–97 Librarian Order* for that definition, the decision does not actually define ''zero viewing,'' or suggest that it is a term of art.

[25] IPG appears to intend a value of 1.0, denoting 100% zero viewing for the non-sweeps weeks. As written, IPG's formula would yield 25% zero viewing (rounded to the nearest whole number).

[26] Further, the Judges previously have found MPAA's explanation of the levels of zero viewing in the Nielsen data in another Phase II proceeding to be sufficient. IPG has not provided any evidence to call that finding into question. *See 2000–03 Cable Determination,* 78 FR at 64995 & n.47.

purported results of any analysis relying thereon.'' IPG PFF ¶ 76. To support its assertion, IPG quotes a statement from a 1992 CRT decision: ''Mr. Lindstrom stated that it was invalid to mix metered viewing with diary viewing. We accept Mr. Lindstrom's statement.'' [27] *1989 Cable Royalty Distribution Proceeding,* 57 FR 15286, 15300 (Apr. 27, 1992); *see also id.* at 15291 (referring to the same testimony by Mr. Lindstrom).

Mr. Lindstrom's testimony in the *1989 Cable Royalty Distribution Proceeding* is not part of the record of this proceeding. There is no evidence before the Judges that could give context and meaning to the CRT's laconic summary of Mr. Lindstrom's statement. The Judges note, however, that the CRT's earlier mention of this same testimony was less categorical, merely stating, ''mixing meter data with diary data *could* invalidly alter the percentage viewing shares . . ..'' *Id.* at 15291 (emphasis added).

Mr. Lindstrom did testify, however, in the instant proceeding. Mr. Lindstrom testified on direct examination about the decision to use meter data for 2008–09 to supplement Dr. Gray's earlier analysis. *See* 4/10/18 Tr. 300–03 (Lindstrom). Mr. Lindstrom raised the issue of mixing data collection methodologies in the course of this discussion, noting his concern regarding the mixing of diary and meter data to measure distant viewing *for the same time frame—i.e.,* 2008–09. *See id.* at 302. In neither his direct nor his cross-examination testimony did Mr. Lindstrom criticize Dr. Gray's use of diary and meter data in his regression. Accordingly, IPG's counsel had the opportunity to explore the ''mixed data'' issue when cross-examining Dr. Gray. *See* 37 CFR 351.10(b) (cross-examination permitted on ''matters raised on direct examination''). Nonetheless, IPG's counsel did not conduct cross-examination on this issue.

Further, the CRT did not—and the Judges do not—issue ''edicts,'' clear or otherwise. Even if it did, the CRT's brief statement in the *1989 Cable Royalty Distribution Proceeding* would not qualify as one. The statement is an evidentiary finding, based on testimony regarding a specific study. Neither the testimony, nor the study is in evidence. The testimony in *this* proceeding supports neither IPG's categorical statement concerning mixing of diary and meter data, nor IPG's application of that statement to Dr. Gray's study. The Judges reject IPG's criticism of Dr. Gray's use of distant viewing data in this proceeding.[28]

C. Conclusions Concerning the MPAA Methodology

The Judges find and conclude that MPAA's distribution methodology is adequate on its face. IPG has presented no evidence or expert analysis that could serve as a basis for rejecting MPAA's methodology or adjusting MPAA's proposed royalty shares to account for any alleged methodological shortcomings. The Judges award royalty shares in the Program Suppliers category as proposed by MPAA and detailed in Table 1.

V. Distribution of Royalties in the Devotional Category

A. The SDC's Methodology

Dr. Erkan Erdem, the SDC's economic expert, devised a methodology that estimates relative marketplace value by using Nielsen local ratings, scaled by numbers of distant subscribers, as a proxy for distant cable and satellite viewership. *See* Erdem WDT at 13. Broadly speaking, Dr. Erdem multiplied the ratings reported in Nielsen's Report on Devotional Programming (RODP) [29] by the numbers of distant subscribers to cable and satellite systems that carry the programs reported in the RODP to obtain what he described as a ''reasonable proxy'' for distant viewership. *See id.* at 13, 15. He then summed the resulting distant viewership estimates for each of IPG's and the SDC's programs, and allocated the royalty shares proportionally. *See id.* at 15. In this respect, the SDC's current methodology does not differ from the methodology the SDC presented prior to the *Order Reopening Record.*

Dr. Erdem sought to validate his reliance on *local* ratings in his methodology by conducting three regression analyses ''to establish that there is a positive, statistically significant correlation between local and distant ratings . . ..'' Erdem WDT at 18. His initial analysis (prior to the *Order Reopening Record*) relied only on February 1999 data to establish this correlation. *See id.* In his testimony in the reopened proceeding, Dr. Erdem used distant viewing data for all four sweeps periods in 1999 through 2003. He continued to find a positive and statistically significant correlation in all three regression analyses. *See id.* at 19. Dr. Erdem's analysis also showed that ''after controlling for local ratings, distant ratings appear to be consistent and stable over 1999–2003.'' *Id.* at 20.

During each of the years covered by this proceeding, Nielsen produced RODPs for each of four quarterly ''sweeps'' periods. When he initially computed royalty shares, Dr. Erdem only had RODPs for one month in each year from 1999 through 2003.[30] *See Order Reopening Record* at 5. The SDC obtained copies of page R–7 (the summary page) from an additional eight RODPs (May, July, and November 1999; May and July 2000; November 2001; July 2002; and May 2003) (the Supplemental Nielsen RODPs). Erdem WDT at 17. Dr. Erdem ''exclude[d] the Supplemental Nielsen RODPs from [his] baseline royalty share calculations,'' but used them in four analyses to demonstrate the validity and reliability of those baseline calculations. *Id.*

First, Dr. Erdem ''analyzed the consistency of ratings for claimed programs over all Nielsen sweep months over 2004–2009'' (*i.e.,* the years for which he had complete sets of RODPs) by calculating how often a claimed program that is rated in February is also rated in the remaining three sweeps months. *Id.* at 20. He found that ''if a program was rated in February, it was also rated in all three remaining sweep months for approximately 91 percent of the time implying that it is highly likely that a program is rated for the rest of the year if it is rated in February.'' *Id.* Dr. Erdem conducted the same analysis including 1999 (using the Supplemental Nielsen RODPs for the remaining sweep periods for that year) and he obtained ''almost identical'' results (91.84% including 1999 versus 90.70% excluding 1999). *Id.* at 20, 31 Ex. 4.

Second, Dr. Erdem ''calculated the change in the ratings between February and every other sweep month for each claimed program'' in 2004–2009. *Id.* at 21 (footnote omitted). He found that ratings for any given program were ''highly stable within a year,'' rarely

[27] Paul Lindstrom was a senior vice president in Nielsen's Strategic Media Research group prior to his retirement in 2017. *See* 4/10/18 Tr. 282 (Lindstrom). He worked for Nielsen for nearly 40 years and testified in numerous distribution proceedings before the Judges and their predecessors. *See id.*

[28] IPG also referred to a subsequent CARP decision in which the CARP found that there were ''unanswered technical questions regarding . . . mixing diary and meter data.'' IPG PFF ¶ 77. This statement is no more an ''edict'' concerning the permissible use of Nielsen data than the CRT's 1992 statement.

[29] The RODP is a syndicated report that Nielsen produces quarterly. It provides nationwide, annualized average ratings for regularly scheduled Devotional programs.

[30] This shortcoming only affected the SDC's proposed shares of satellite royalties, since the cable portion of this proceeding covers only 2004–09. Dr. Erdem used RODPs for each of the four sweeps periods in 2004–09 in computing cable and satellite royalty shares for those years. *See* Erdem WDT at 4, 7 n.8, 21.

differing by more than 0.1 percentage points. *Id.* When Dr. Erdem included 1999 in this analysis, he found ''the change was at most 0.1 percentage points for 96.4 percent of the time (calculated over 278 comparisons).'' *Id.*

Third, Dr. Erdem ''checked the impact of using only February ratings data on [his] royalty estimates even for years when [he had] access to four reports,'' reasoning that ''[i]f the impact is small, then this is further evidence that February is representative of the whole year.'' *Id.* He found that the largest changes in the SDC's computed royalty shares were 2.8 percentage points for cable and 0.3 percentage points for satellite. *Id.*

Finally, Dr. Erdem computed royalty shares for 1999–2003 using all of the Supplemental Nielsen RODPs. He found ''the impact of using a more comprehensive data has almost no impact (when rounded to 1 decimal point) on the royalty shares.''[31] *Id.*

B. IPG's Criticisms

1. Dr. Erdem had no ''Foundational Familiarity'' with Data Used to Bolster Methodology

IPG acknowledged that the SDC obtained additional data that Dr. Erdem used to bolster the analysis that he presented before the Judges reopened the record. *See* IPG PFF ¶ 83. IPG argued, however, that Dr. Erdem was not sufficiently familiar with one portion of the additional data: distant household viewing hours (HHVH) data for 2000–2003 that Nielsen prepared for MPAA and that the SDC received through discovery. *Id.* ¶ 85. IPG supported this conclusion only with the fact that Dr. Erdem received the data in discovery, instead of developing, designing or commissioning it himself. *Id.*

IPG's criticism is unsupported by expert analysis or record evidence. Therefore, the Judges reject it.

2. Dr. Erdem Relied on National Average Ratings Data instead of Station-by-Station Local Ratings

IPG noted that the SDC methodology measures distant viewership using national average ratings set forth on the R–7 summary page of RODPs. IPG asserted, ''there is no way to determine if a higher rating was derived from a station with *de minimus* [*sic*] distant subscribers or extraordinarily high distant subscribers.'' IPG PFF ¶¶ 89–90. IPG contended that the RODPs include local ratings on a station-by-station basis but that Dr. Erdem failed to use that information in the SDC methodology. *Id.* ¶ 90.

In this proceeding, the Judges must determine royalty shares on an annualized basis. The two methodologies presented by MPAA and the SDC demonstrate that there are different ways of measuring those shares. MPAA starts with disaggregated viewership measurements and aggregates them up to royalty shares. The SDC begins with data that Nielsen has already aggregated and averaged on an annualized basis. IPG, in spite of its criticism of the MPAA methodology, appears to criticize the SDC for not using the same general approach.

In the absence of any expert analysis supporting IPG's assertion, the Judges find no credible support in the record to indicate that Dr. Erdem's choice of a starting place is deficient. Dr. Erdem reasonably explained and justified his methodological choices as part of his expert testimony. Therefore, the Judges accept Dr. Erdem's testimony as authoritative. Criticism by IPG's counsel is not a substitute for expert rebuttal testimony. The Judges reject this criticism of the SDC's methodology because it is unsupported by expert analysis or record evidence.

3. The SDC Relied on Insufficient Data to Establish Correlation between Local Ratings and Distant Viewership

IPG argued that Dr. Erdem based his conclusion that there is a positive and statistically significant correlation between local ratings and distant viewership on a quantum of data that the Judges previously found to be insufficient in the *Order Reopening Record. See* IPG PFF ¶ 93. Specifically, IPG faulted Dr. Erdem for using only 1999–2003 distant HHVH data to establish the existence of a correlation between local ratings and distant viewing. *Id.* ¶¶ 83–84, 93.[32] IPG noted that the Judges rejected MPAA's original methodology in this proceeding because Dr. Gray relied on distant viewership data from 2000–2003 to establish a mathematical relationship between local ratings and distant viewing that he used to predict levels of distant viewing for the entire period covered by the proceeding. *See id.* ¶ 93; *Order Reopening Record* at 3.

The Judges did find the original methodologies and data that the parties presented in this proceeding to be substantively insufficient. The Judges required the parties to present additional data ''or competent persuasive evidence that such data are not needed to produce reliable results . . ..'' *Id.* at 5; *see id.* at 4. MPAA and the SDC have done both. Specifically, both MPAA and the SDC have now presented a quantum of persuasive evidence and analysis demonstrating a positive correlation between local ratings and distant viewing *that is consistent over time. See* Erdem WDT at 19–20; 4/9/18 Tr. 63–65 (Erdem); *cf.* Gray WDT ¶¶ 13–14 (additional two years of contemporary distant viewing data produced results ''consistent with'' earlier results without those data). That consistency provides the Judges with adequate assurance regarding the reliability of the viewing data in the record to support a consistent positive correlation between local ratings and distant viewing data over the years at issue in this proceeding, particularly when computing the royalty shares directly from local ratings data as in Dr. Erdem's methodology. The Judges, therefore, reject IPG's argument that Dr. Erdem used insufficient distant viewing data.

4. Dr. Erdem ''Misrepresented'' a Positive Correlation between Local Ratings and Distant Viewership

IPG stated, ''[f]or the first time, in his oral testimony [Dr.] Erdem revealed that his asserted local ratings/distant viewership correlation is not between *broadcasts* for which he has both local ratings data and distant viewership data, but *annual averages of broadcasts* for programs.'' IPG PFF ¶ 97.[33] IPG then argued that Dr. Erdem's analysis does not support a conclusion that there is a positive correlation between local ratings and distant viewing, because there is no way of knowing whether the local ratings and distant viewing measurements relate to the same broadcasts. *See id.* ¶¶ 98–99.

[31] This had no effect on the cable royalty shares because Dr. Erdem already had RODPs for all sweeps months in 2004–09. *See supra,* note 32.

[32] Dr. Erdem and Mr. Sanders testified that it was not possible for the SDC to obtain distant viewing data for 2004–2009. *See* Erdem WDT at 22; Sanders WDT at 14; 4/9/18 Tr. 62, 122 (Erdem); 4/9/18 Tr. 239 (Sanders) (''there was a limitation on that data and I just don't recall exactly what it was''). IPG argued that the SDC could have acquired metered distant viewing data as MPAA did. *See* IPG PFF ¶ 84; 4/9/18 Tr. 238–39 (IPG Counsel). Assuming for the sake of argument that the SDC *could* have acquired metered distant viewing data, IPG presents no evidence that the SDC *should* have acquired those data. The record does not even suggest that those data would have changed Dr. Erdem's conclusions materially to IPG's benefit.

[33] The Judges emphatically reject IPG's implication that Dr. Erdem ''misrepresented'' his results or tried to conceal the nature of the data on which he relied. Dr. Erdem was clear, both in his written and oral testimony, that he relied on the average nationwide ratings presented in Nielsen's RODPs. *See, e.g.,* Erdem WDT at 13 (''The average ratings provided in the Nielsen Reports on Devotional Programming . . . constitute the primary data source to allocate royalties.''); 4/9/18 Tr. 118–119 (Erdem).

The Judges regard this criticism as a particular instance of IPG's more general criticism of Dr. Erdem's use of annualized national average ratings in his methodology. The Judges reject this criticism for the same reasons already articulated in this Determination. *See infra,* section V.B.2.

5. Dr. Erdem failed to Account for Number of Broadcasts of Retransmitted Programs

IPG stated,

> [t]here is no evidence or testimony to demonstrate that [Dr.] Erdem accounted for the number of broadcasts of a program on a station when calculating ''the number of subscribers for channels'' on which the program is broadcast. That is, no evidence or testimony demonstrates that [Dr.] Erdem valued a program differently if it had been retransmitted on a station 100 times versus 1,000 times.

IPG PFF ¶ 102.

Dr. Erdem's methodology multiplies ratings by numbers of distant subscribers to derive a measurement of distant viewing. Volume of programming, whether measured by numbers of minutes or numbers of broadcasts, is not a part of Dr. Erdem's methodology, and Dr. Erdem testified that volume is not a reliable indicium of value. *See* Erdem WDT at 9. According to Dr. Erdem, ''a determination of relative market value should not be based on total hours or total number of programs'' because '''quality' of the content and the time slot when a show is broadcast . . . are significant drivers of 'demand''' and thus relative market value. *Id.*

The Judges accept Dr. Erdem's assessment and no witness testified otherwise. Specifically, no witness testified that the failure to include volume measurements renders a viewership-based methodology unreliable.

IPG's criticism on this issue is unsupported by any expert analysis or record evidence. The Judges, therefore, reject it.

6. The RODP does not Measure all Compensable Devotional Programming

IPG contended, and the SDC confirmed, that the Nielsen RODPs do not report ratings for all of the Devotional programs at issue in this proceeding. *See* IPG PFF ¶ 103; Erdem WDT at 7, 13; Sanders WDT at 20–21. Under Nielsen's reportability standards, the RODP only includes programs that, *inter alia,* are ''telecast in at least five NSI markets on reportable commercial TV stations and scheduled at the same time and day in at least two of the four [sweeps] weeks.'' [34] Erdem WDT at 6 (quoting Nielsen RODP for February 2004 at pp. A–B). IPG argued that, as a result, the SDC methodology omits ''significant IPG-represented programming,'' including programs carried on WGNA.[35] IPG PFF ¶ 103 (citing Erdem WDT at 16 n.25).

Dr. Erdem testified that it was appropriate to exclude non-regularly scheduled programs from an analysis of relative market value because ''from an Operator's perspective, with rare exception, programs that are not scheduled on a regular basis are less likely to drive subscriptions than regularly scheduled programs (such as the ones captured by the Nielsen reports).'' Erdem WDT at 9 n.14. John Sanders, the SDC's expert on media valuation, expressed a similar opinion:

> To attract a subscriber, I would argue there has to be some level of predictability to the program. So if you know that a program is going to be aired five days a week, that's something that someone could subscribe to with some level of certainty.
>
> If it is something that may or may not be aired several times a year, as a special, there is no way of foreseeing that.

4/9/18 Tr. 240 (Sanders). Dr. Erdem also noted that the omitted IPG programs that aired on WGNA had no effect on IPG's share of cable programming in this proceeding because the excluded WGNA programming that IPG claimed comprised only a few irregularly scheduled telecasts from 2000–2003. *See* Erdem WDT at 16 & n.25.[36]

The Judges accept the unrebutted testimony of the SDC's experts that the omitted programs were significantly less valuable than the programs that were included in the RODP. The Judges also accept Dr. Erdem's unrebutted testimony that exclusion of non-regularly scheduled programs was an appropriate methodological choice.[37] With respect to the exclusion of WGNA programming, the Judges accept Dr. Erdem's conclusion that the exclusion had no impact on IPG's shares of cable royalties. Moreover, with respect to satellite, the exclusion of WGNA programming from Dr. Erdem's methodology was intended to avoid giving an unfair advantage to the SDC and did not unfairly decrease IPG's satellite royalty shares for the years at issue given the irregularity of the broadcasts that IPG claims.

7. Dr. Erdem Relied on RODP Data with Excessive ''Zero Viewing''

As it did with MPAA's methodology, IPG attacked the SDC's methodology based on the supposed levels of ''zero viewing'' in the underlying Nielsen data. IPG argued that the *93–97 Librarian Order,* therefore, precludes the Judges from accepting the SDC's methodology. *See* IPG PFF ¶¶ 108–116.

None of the RODPs that Dr. Erdem used in the SDC methodology contained zero viewing measurements. Nielsen credits all programs that meet its reportability standards with either a numerical rating or the designation ''LT,'' meaning that the rating is too low to report (less than 0.1% of households). For programs receiving a ''LT'' rating, Dr. Erdem computed a numeric rating from the number of households viewing the program and the number of households sampled—essentially the same computation that Nielsen performs for higher-rated programs—and used that value in his analysis. *See* Erdem WDT, at 14–15 & n.22; 4/9/18 Tr. 113 (Erdem).

Nevertheless, IPG argued that the SDC's methodology suffers from a zero viewing problem. IPG contended that the SDC's methodology, by relying on sweeps data (which cover only 16 weeks a year at most), ''automatically'' has levels of zero viewing ranging from 69% to more than 84%. *See* IPG PFF ¶ 109. IPG reached this conclusion by imputing zero viewing values for the weeks of the year not covered by available sweeps data. IPG also endeavored to show that the Nielsen RODP data on which the SDC rely have high levels of zero viewing on a station-by-station basis. *See id.* ¶ 110.

IPG's effort to demonstrate a zero viewing problem with the Nielsen RODP data employed by the SDC is not supported by record evidence. IPG's zero viewing estimates appear for the first time in IPG's proposed findings, without citation to the record. *See* IPG

[34] NSI stands for ''Nielsen Station Index,'' and is Nielsen's local ratings product.

[35] WGNA, the national feed for WGN Chicago, is the most widely retransmitted television station in the U.S., reaching over 32 million distant cable subscribers and more than 9 million distant satellite subscribers during each year covered by this proceeding. *See* Gray WDT at 20, 36–49 (Appendices C–1 and C–2).

[36] By contrast, one SDC program was aired regularly on WGNA in 1999–2001. *See* Erdem WDT at 16 n.25. Dr. Erdem did not include any WGNA programming in his calculations of royalty shares. Since the SDC claimed the only regularly scheduled program on WGNA during this time period, this methodological decision had the effect of reducing *the SDC's* royalty share. *See id.*

[37] Mr. Sanders testified that it might be necessary to adjust royalty shares based on RODP data to reflect audiences attributable to programs that do not meet Nielsen's reporting criteria. Sanders WDT at 21. However, in the absence of any evidence of the value, if any, of the omitted programs, the Judges are unable to determine whether (and, if so, to what extent) they should adjust the SDC's proposed royalty shares.

PFF ¶ 109. IPG again improperly imputed zero values to periods not covered by the data to achieve this result.[38]

IPG failed to demonstrate the existence of any significant incidence of zero viewing. The Judges, therefore, need not evaluate whether the SDC have ''demonstrate[d] the causes for the large amounts of zero viewing and explain[ed] in detail the effect of the zero viewing on the reliability of the results'' of its methodology. *93–97 Librarian Order,* 66 FR at 66450.

8. Dr. Erdem Relied on Cable Data to Establish Viewership Correlation for Satellite Transmissions

IPG faulted Dr. Erdem for determining a correlation between local and distant ratings by using HHVH data that combined distant viewing by cable and satellite. According to IPG,

> [Dr.] Erdem testified that the MPAA distant HHVH figures that he utilized were ''an average'' of distant cable and satellite HHVH Figures. No evidence or testimony exists as to why [Dr.] Erdem would blend the distant *cable and satellite* HHVH figures when attempting to calculate and impute a distant *satellite* rating.

IPG PFF ¶ 107 (citations omitted).

Dr. Erdem computed royalty shares based on *local* ratings. He used HHVH data to demonstrate that his reliance on local ratings was reasonable, by showing that there is a positive and statistically significant correlation between local ratings and distant viewing. Dr. Erdem testified that that stage of the analysis ''is not specifically for cable or satellite.'' 4/9/18 Tr. 108 (Erdem). In light of Dr. Erdem's description of the particular, limited use of the HHVH data, and in the absence of any contrary evidence or expert analysis, the Judges find Dr. Erdem's use of the HHVH data to be reasonable.

C. Conclusions Concerning the SDC Methodology

The Judges find and conclude that the SDC's distribution methodology is facially adequate and an appropriate means in the current proceeding based on the record evidence for measuring relative market values of Devotional programming for the years at issue. IPG has presented no evidence or expert analysis that could serve as a basis for rejecting the SDC's methodology or adjusting the SDC's proposed royalty shares to account for any alleged shortcomings in that methodology. The Judges award royalty shares in the Devotional category as proposed by the SDC and detailed in Table 2.

[38] *See supra,* section IV.B.5.

VI. Conclusion

The Judges adopt the MPAA and SDC methodologies and proposed percentages for final distribution of satellite royalties deposited for the years 1999 through 2009 and cable royalties deposited for the years 2004–2009 and allocated to the Program Suppliers and Devotional categories, respectively. The Judges therefore ORDER distribution of funds in the Program Suppliers category as set forth in Table 1 and in the Devotional category as set forth in Table 2.

The Register of Copyrights may review the Judges' Determination for legal error in resolving a material issue of substantive copyright law. The Librarian shall cause the Judges' Determination, and any correction thereto by the Register, to be published in the **Federal Register** no later than the conclusion of the 60-day review period. When this Determination becomes final and non-appealable, either party may or the parties jointly may file a motion for distribution of the funds. The Judges will then order distribution in accordance with this Final Determination.

February 13, 2019.

So ordered.

Suzanne M. Barnett,

Chief United States Copyright Royalty Judge.

David R. Strickler

United States Copyright Royalty Judge.

Jesse M. Feder

United States Copyright Royalty Judge.

The Register of Copyrights closed her review of this Determination on March 29, 2019, with no finding of legal error.

Dated: April 1, 2019.

Jesse M. Feder,

Chief United States Copyright Royalty Judge.

Approved by:

Carla B. Hayden,

Librarian of Congress.

[FR Doc. 2019–07695 Filed 4–16–19; 8:45 am]

BILLING CODE 1410–72–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

Notice: (19–020).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Laurette L. Brown, National Aeronautics and Space Administration, Mail Code IT–C2, Kennedy Space Center, FL 32899.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Laurette L. Brown, National Aeronautics and Space Administration, Mail Code IT–C2, Kennedy Space Center, FL 32899 or email *Laurette.L.Brown@NASA.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The NASA Business Opportunities Expo is an annual event sponsored by the NASA KSC Prime Contractor Board, U.S. Air Force 45th Space Wing and Canaveral Port Authority. Attendees include: Small businesses who want to meet and network with NASA and KSC Prime Contractors; large contractors seeking teaming opportunities with Small Businesses; and construction companies interested in learning more about NASA contract opportunities.

Exhibitors include businesses offering a variety of products and services, representatives from each NASA center, the Patrick Air Force Base 45th Space Wing, prime contractors and other government agencies.

Attendee Information collected is name, Company, address, email, telephone. Exhibitors are asked to provide the same information, plus company information that is published in the event program: Commercial and Government Entity (CAGE) Code, Primary North American Industry Classification System (NAICS) Code, Business Categories, Core company capabilities and Past or current work/contracts with NASA.

II. Methods of Collection

Electronic

III. Data

Title: NASA Business Opportunities Expo.

OMB Number: 2700–xxxx.

Type of Review: New.

Affected Public: Individuals.

Average Expected Annual Number of Activities: 1.

Average Number of Respondents per Activity: 2300.

Annual Responses: 2300: Attendee 2100, Exhibitor 200.

Frequency of Responses: 1 per year.
Average Minutes per Response: Attendee-1, Exhibitor–5.
Burden Hours: 51.7.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Laurette L. Brown,

NASA/KSC PRA Clearance Coordinator.

[FR Doc. 2019–07691 Filed 4–16–19; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Meeting of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meeting.

SUMMARY: The National Endowment for the Humanities will hold one meeting of the Humanities Panel, a federal advisory committee, during May 2019. The purpose of the meeting is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965.

DATES: See **SUPPLEMENTARY INFORMATION** for meeting date. The meeting will open at 8:30 a.m. and will adjourn by 5:00 p.m. on the date specified below.

ADDRESSES: The meeting will be held at Constitution Center at 400 7th Street SW, Washington, DC 20506, unless otherwise indicated.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, Room 4060, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given of the following meeting:

1. Date: May 7, 2019

This meeting will discuss applications for the Institutes for Advanced Topics in the Digital Humanities, submitted to the Office of Digital Humanities. Because this meeting will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meeting will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: April 11, 2019.

Elizabeth Voyatzis,

Committee Management Officer, National Endowment for the Humanities.

[FR Doc. 2019–07635 Filed 4–16–19; 8:45 am]

BILLING CODE 7536–01–P

NUCLEAR REGULATORY COMMISSION

Meeting of the Advisory Committee on Reactor Safeguards (ACRS); Subcommittee on Thermal-Hydraulic Phenomena

The ACRS Subcommittee on Thermal-Hydraulic Phenomena will hold a meeting on April 18, 2019, at the U.S. Nuclear Regulatory Commission, Two White Flint North, Conference Room T2D10, 11545 Rockville Pike, Rockville, MD 20852. The meeting will be open to public attendance with the exception of portions that may be closed to protect information that is proprietary pursuant to 5 U.S.C. 552b(c)(4).

The agenda for the subject meeting shall be as follows:

Thursday, April 18, 2019—8:30 a.m. Until 12:00 p.m.

The Subcommittee will review an NRC technical report regarding the GSI–191: Technical Evaluation of the Vessel Closure Based on Low Safety Significance. The Subcommittee will hear presentations by and hold discussions with NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Weidong Wang (Telephone 301–415–6279 or Email: *Weidong.Wang@nrc.gov*) one day prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. The public bridgeline number for the meeting is 866–822–3032, passcode 8272423. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on December 7, 2018 (83 FR 26506).

Detailed meeting agendas and meeting transcripts are available on the NRC website at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the website cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, Maryland. After registering with Security, please contact Paula Dorm (Telephone 301–415–7799) to be escorted to the meeting room.

Dated: April 9, 2019.

Lawrence Burkhart,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2019–07588 Filed 4–16–19; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Annuitant's Report of Earned Income, RI 30–2, 3206–0034

AGENCY: Office of Personnel Management.

ACTION: 60-day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on an extension, without change, of a currently approved information collection request (ICR), Annuitant's Report of Earned Income, RI 30–2.

DATES: Comments are encouraged and will be accepted until June 17, 2019.

ADDRESSES: You may submit comments, identified by docket number and title, by the following method:

Federal Rulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent by email to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910 or reached via telephone at (202) 606–4808.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection (OMB No. 3206–0034). The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Form RI 30–2 is used annually to determine if disability retirees under age 60 have earned income which will result in the termination of their annuity benefits under title 5, U.S.C. Sections 8337 and 8455. It also specifies the conditions to be met and the documentation required for a person to request reinstatement.

Analysis

Agency: Retirement Services, Office of Personnel Management.

Title: Annuitant's Report of Earned Income.

OMB Number: 3206–0034.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 21,000.

Estimated Time per Respondent: 35 minutes.

Total Burden Hours: 12,250.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2019–07669 Filed 4–16–19; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Assignment, Federal Employees' Group Life Insurance (FEGLI) Program, RI 76–10

AGENCY: Office of Personnel Management.

ACTION: 60-day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on a revised information collection, Assignment, Federal Employees' Group Life Insurance (FEGLI) Program, RI 76–10.

DATES: Comments are encouraged and will be accepted until June 17, 2019.

ADDRESSES: You may submit comments, identified by docket number and title, by the following method:

Federal Rulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent by email to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910 or reached via telephone at (202) 606–4808.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection (OMB No. 3206–0270). The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Form RI 76–10 allows an insured individual to transfer ownership, or ''assign'' the FEGLI coverage, to a third party. An insured may assign for several reasons; for example, for financial planning purposes, or to comply with a court order, or to sell the coverage to a third-party. Unlike a designation of beneficiary, once an assignment is executed, it is irrevocable.

Analysis

Agency: Retirement Services, Office of Personnel Management.

Title: Assignment, Federal Employees' Group Life Insurance (FEGLI) Program.

OMB Number: 3206–0270.

Frequency: Annually.

Affected Public: Federal employees, retirees, and assignees.

Number of Respondents: 400.

Estimated Time per Respondent: 15 minutes.

Total Burden Hours: 100 hours.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2019–07671 Filed 4–16–19; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: RI 25–15, Notice of Change in Student's Status, 3206–0042

AGENCY: Office of Personnel Management.

ACTION: 30-day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a revised information collection request RI 25–15, Notice of Change in Student's Status.

DATES: Comments are encouraged and will be accepted until May 17, 2019.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this information collection, with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910 or via telephone at (202) 606–4808.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 OPM is soliciting comments for this collection. The information collection (OMB No. 3206–0042) was previously published in the **Federal Register** on November 28, 2018 at 83 FR 61175, allowing for a 60-day public comment period. No comments were received for this collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper Performance of functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

RI 25–15, Notice of Change in Student's Status, is used to collect sufficient information from adult children of deceased Federal employees or annuitants to assure that the child continues to be eligible for payments from OPM.

Analysis

Agency: Retirement Services, Office of Personnel Management.

Title: Notice of Change in Student's Status.

OMB: 3206–0042.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 2,500.

Estimated Time per Respondent: 20.

Total Burden Hours: 835.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2019–07668 Filed 4–16–19; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2019–119 and CP2019–128; MC2019–120 and CP2019–129; MC2019–121 and CP2019–130; MC2019–122 and CP2019–131]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* April 19, 2019.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

[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).

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2019–119 and CP2019–128; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & First-Class Package Service Contract 58 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* April 11, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Curtis E. Kidd; *Comments Due:* April 19, 2019.

2. *Docket No(s).:* MC2019–120 and CP2019–129; *Filing Title:* USPS Request to Add Priority Mail Express & Priority Mail Contract 91 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* April 11, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Curtis E. Kidd; *Comments Due:* April 19, 2019.

3. *Docket No(s).:* MC2019–121 and CP2019–130; *Filing Title:* USPS Request to Add Priority Mail Express Contract 73 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* April 11, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* April 19, 2019.

4. *Docket No(s).:* MC2019–122 and CP2019–131; *Filing Title:* USPS Request to Add Priority Mail Contract 521 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* April 11, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* April 19, 2019.

This Notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2019–07657 Filed 4–16–19; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Express Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* April 17, 2019.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on April 11, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express Contract 73 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2019–121, CP2019–130.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–07640 Filed 4–16–19; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* April 17, 2019.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on April 11, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 521 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2019–122, CP2019–131.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–07641 Filed 4–16–19; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* April 17, 2019.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on April 12, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express Contract 74 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2019–123, CP2019–132.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–07699 Filed 4–16–19; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express and Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* April 17, 2019.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service ® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on April 11, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express & Priority Mail Contract 91 to Competitive Product List.* Documents are available at

www.prc.gov, Docket Nos. MC2019–120, CP2019–129.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–07639 Filed 4–16–19; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, & First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* April 17, 2019.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on April 11, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, & First-Class Package Service Contract 58 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2019–119, CP2019–128.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–07594 Filed 4–16–19; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85610; File No. SR–NYSEARCA–2019–22]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot for Certain Options Market Rules That Are Linked to the Equity Market Plan To Address Extraordinary Market Volatility

April 11, 2019.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 5, 2019, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility. 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 purpose of the proposed rule change is to extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility (the ''Limit Up-Limit Down Plan'' or the ''Plan''). This change is being proposed in connection with a proposed amendment to the Limit Up-Limit Down Plan that would allow the Plan to continue to operate on a permanent basis (''Amendment 18'').

In an attempt to address extraordinary market volatility in NMS Stock, and, in particular, events like the severe volatility on May 6, 2010, U.S. national securities exchanges and the Financial Industry Regulatory Authority, Inc. (collectively, ''Participants'') drafted the Plan pursuant to Rule 608 of Regulation NMS and under the Act.[4] On May 31, 2012, the Commission approved the Plan, as amended, on a one-year pilot basis.[5] Though the Plan was primarily designed for equity markets, the Exchange believed it would, indirectly, potentially impact the options markets as well. Thus, the Exchange has previously amended and adopted Rule 6.65A–O and Interpretation and Policy .03 to Rule 6.87–O to ensure the option markets were not harmed as a result of the Plan's implementation and has implemented such rules on a pilot basis that has coincided with the pilot period for the Plan (the ''Options Pilots'').[6]

The Commission recently published an Amendment 18, which would allow the Plan to operate on a permanent, rather than pilot, basis.[7] In connection with this change, the Exchange proposes to amend the Options Pilots to expire at the close of business on October 18, 2019—*i.e.,* six months after the expiration of the current pilot period for the Plan. Specifically, the Exchange proposes to amend Rule 6.65A–O and Interpretation and Policy .03 to Rule 6.87–O to untie the Options Pilot's effectiveness from that of the Plan and to extend the Options Pilot's effectiveness to the close of business on October 18, 2019. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs, the substance of which are identical to the proposal.

The Exchange does not propose any additional changes to Rule 6.65A–O and Interpretation and Policy .03 to Rule 6.87–O. The Exchange believes the benefits to market participants from the Options Pilots should continue on a limited six month pilot basis after Commission approves the Plan to operate on a permanent basis. Assuming the Plan is approved by the Commission to operate on a permanent, rather than pilot, basis the Exchange intends to assess whether additional changes should also be made to the Options

[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. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011) (File No. 4–631).

[5] *See* Securities and Exchange Act Release No. 67091 (May 31, 2012) 77 FR 33498 (June 6, 2012).

[6] *See* Securities Exchange Act Release Nos. 69340 (April 8, 2013), 78 FR 22004 (April 12, 2013) (SR–NYSEArca–2013–10) (amending certain options rules to coincide with the pilot period for the Plan, including Rule 6.65 and Rule 6.65A); and 76246 (October 23, 2015), 80 FR 66603 (October 29, 2015) (SR–NYSEArca–2015–101) (amending Rules 6.65A and 6.87 to coincide with the pilot period for the Plan).

[7] *See* Securities Exchange Act Release Nos. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (Amendment No. 18 Proposing Release).

Pilots. Extending the Options Pilots for an additional six months should provide the Exchange and other national securities exchanges additional time to consider further amendments to their rules in light of proposed Amendment 18.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[8] in general, and Section 6(b)(5) of the Act,[9] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning rules for options markets adopted to coincide with the Plan. The Exchange believes that extending the Options Pilots for an additional six months would help assure that the rules subject to such Pilots are either similarly made permanent, amended or removed, following additional discussion and analysis by the Exchange and other national securities exchanges. The proposed rule change would also help assure that such rules are not immediately eliminated, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the Options Pilots should continue to be in effect on a pilot basis while the Exchange and the other national securities exchanges consider and develop a permanent proposal for such rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[10] in general, and Section 6(b)(5) of the Act,[11] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning rules for options markets adopted to coincide with the Plan. The Exchange believes that extending the Options Pilots for an additional six months would help assure that the rules subject to such Pilots are either similarly made permanent, amended or removed, following additional discussion and analysis by the Exchange and other national securities exchanges. The proposed rule change would also help assure that such rules are not immediately eliminated, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the Options Pilots should continue to be in effect on a pilot basis while the Exchange and the other national securities exchanges consider and develop a permanent proposal for such rules.

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)(iii) of the Act[12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6)[14] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[15] 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 so that the proposed rule change may become effective and operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the current Options Pilots to continue uninterrupted, without any changes, while the Exchange and the other national securities exchanges consider and develop a permanent proposal for Options Pilots. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[16]

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–NYSEARCA–2019–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2019–22. 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

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 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] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2019–22 and should be submitted on or before May 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07626 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85609; File No. SR–GEMX–2019–04]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot for Certain Options Market Rules That Are Linked to the Equity Market Plan To Address Extraordinary Market Volatility

April 11, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 5, 2019, Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqgemx.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 the proposed rule change is to extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility (the ''Limit Up-Limit Down Plan'' or the ''Plan''). This change is being proposed in connection with a proposed amendment to the Limit Up-Limit Down Plan that would allow the Plan to continue to operate on a permanent basis (''Amendment 18'').

In an attempt to address extraordinary market volatility in NMS Stock, and, in particular, events like the severe volatility on May 6, 2010, U.S. national securities exchanges and the Financial Industry Regulatory Authority, Inc. (collectively, ''Participants'') drafted the Plan pursuant to Rule 608 of Regulation NMS and under the Act.[3] On May 31, 2012, the Commission approved the Plan, as amended, on a one-year pilot basis.[4] Though the Plan was primarily designed for equity markets, the Exchange believed it would, indirectly, potentially impact the options markets as well. Thus, the Exchange previously adopted Rules 702(d) and Supplementary Material .01 to Rule 720 to ensure the option markets were not harmed as a result of the Plan's implementation and has implemented such rules on a pilot basis that has coincided with the pilot period for the Plan (the ''Options Pilots'').[5]

The Commission recently published an Amendment 18, which would allow the Plan to operate on a permanent, rather than pilot, basis.[6] In connection with this change, the Exchange proposes to amend the Options Pilots to expire at the close of business on October 18, 2019—*i.e.,* six months after the expiration of the current pilot period for the Plan. Specifically, the Exchange proposes to amend Exchange Rules 702(d) and Supplementary Material .01 to Rule 720 to untie the Options Pilot's effectiveness from that of the Plan and to extend the Options Pilot's effectiveness to the close of business on October 18, 2019. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs, the substance of which are identical to the proposal.

The Exchange does not propose any additional changes to Exchange Rules 702 and 720. The Exchange believes the benefits to market participants from the Options Pilots should continue on a limited six month pilot basis after Commission approves the Plan to operate on a permanent basis. Assuming the Plan is approved by the Commission to operate on a permanent, rather than pilot, basis the Exchange intends to assess whether additional changes should also be made to the Options Pilots. Extending the Options Pilots for an additional six months should provide the Exchange and other national securities exchanges additional time to consider further amendments to their

[3] *See* Securities Exchange Act Release No. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011) (File No. 4–631).

[4] *See* Securities and Exchange Act Release No. 67091 (May 31, 2012) 77 FR 33498 (June 6, 2012).

[5] *See* Securities Exchange Act Release No. 74897 (May 7, 2015), 80 FR 27415 (May 13, 2015) (SR–ISEGemini–2015–11) (amending Rule 702(d) and Supplementary .01 to Rule 720 to coincide with the pilot period for the Plan) [sic].

[6] *See* Securities Exchange Act Release Nos. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (Amendment No. 18 Proposing Release).

rules in light of proposed Amendment 18.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[7] in general, and Section 6(b)(5) of the Act,[8] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning rules for options markets adopted to coincide with the Plan. The Exchange believes that extending the Options Pilots for an additional six months would help assure that the rules subject to such Pilots are either similarly made permanent, amended or removed, following additional discussion and analysis by the Exchange and other national securities exchanges. The proposed rule change would also help assure that such rules are not immediately eliminated, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the Options Pilots should continue to be in effect on a pilot basis while the Exchange and the other national securities exchanges consider and develop a permanent proposal for such rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of the Options Pilots while the Exchange and other national securities exchanges consider further amendments to these rules in light of proposed Amendment 18. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs, the substance of which are identical to this proposal. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues [sic].

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[12] 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 so that the proposed rule change may become effective and operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the current Options Pilots to continue uninterrupted, without any changes, while the Exchange and the other national securities exchanges consider and develop a permanent proposal for the Options Pilots. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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–GEMX–2019–04 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–GEMX–2019–04. 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

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

submit only information that you wish to make available publicly. All submissions should refer to File Number SR–GEMX–2019–04 and should be submitted on or before May 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo Aleman,

Deputy Secretary.

[FR Doc. 2019–07627 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85632; File No. SR–Phlx–2019–14]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Current Pilot Program Related to Clearly Erroneous Transactions

April 11, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 10, 2019, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the current pilot program related to Phlx Rule 3312, Clearly Erroneous Transactions, to the close of business on October 18, 2019.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the current pilot program related to Rule 3312, Clearly Erroneous Transactions, to the close of business on October 18, 2019. This change is being proposed in connection with proposed amendments to the Plan to Address Extraordinary Market Volatility (the ''Limit Up-Limit Down Plan'' or the ''Plan'') that would allow the Plan to continue to operate on a permanent basis.[3]

On September 10, 2010, the Commission approved, on a pilot basis, changes to corresponding rules of The Nasdaq Stock Market LLC (''Nasdaq''), Nasdaq BX, Inc. (''BX''), and other exchanges that, among other things: (i) Provided for uniform treatment of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (ii) reduced the ability of the exchanges to deviate from the objective standards set forth in the rule.[4] Following this, on September 30, 2010, the Exchange adopted changes to conform its Rule 3312 to Nasdaq's and BX's rules 11890.[5] In 2013, the Exchange adopted a provision designed to address the operation of the Plan.[6] Finally, in 2014, the Exchange adopted two additional provisions providing that: (i) A series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information resulting in a severe valuation error for all such transactions; and (ii) in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of an Exchange, another SRO, or responsible single plan processor in connection with the transmittal or receipt of a trading halt, an Officer, acting on his or her own motion, shall nullify any transaction that occurs after a trading halt has been declared by the primary listing market for a security and before such trading halt has officially ended according to the primary listing market.[7] These changes are currently scheduled to operate for a pilot period that coincides with the pilot period for the Limit Up-Limit Down Plan,[8] including any extensions to the pilot period for the Plan.[9]

The Commission recently published the proposed Eighteenth Amendment to the Plan to allow the Plan to operate on a permanent, rather than pilot, basis. The Exchange proposes to amend Rule 3312 to untie the pilot program's effectiveness from that of the Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019—*i.e.,* six months after the expiration of the current pilot period for the Plan. If the pilot period is not either extended, replaced or approved as permanent, the prior versions of paragraphs (a)(2)(C), (b), and (c)(1) shall be in effect, and the provisions of paragraphs (g) through (i) shall be null and void.[10] In such an event, the remaining sections of Rule 3312 would continue to apply to all transactions executed on the Exchange. The Exchange understands that the other national securities exchanges and Financial Industry Regulatory Authority (''FINRA'') will also file similar proposals to extend their respective clearly erroneous execution pilot programs, the substance of which are identical to Rule 3312.

The Exchange does not propose any additional changes to Rule 3312. The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a limited six month pilot basis after Commission approves

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (File No. 4–631) (''Eighteenth Amendment'').

[4] *See* Securities Exchange Act Release No. 62886 (September 10, 2010), 75 FR 56613 (September 16, 2010) (File Nos. SR–BATS–2010–016; SR–BX–2010–040; SR–CBOE–2010–056; SR–CHX–2010–13; SR–EDGA–2010–03; SR–EDGX–2010–03; SR–ISE–2010–62; SR–NASDAQ–2010–076; SR–NSX–2010–07; SR–NYSE–2010–47; SR–NYSEAmex–2010–60; SR–NYSEArca–2010–58).

[5] *See* Securities Exchange Act Release No. 63023 (September 30, 2010), 75 FR 61802 (October 6, 2010) (SR–Phlx–2010–125).

[6] *See* Securities Exchange Act Release No. 68820 (February 1, 2013), 78 FR 9436 (February 8, 2013) (SR–Phlx–2013–12).

[7] *See* Securities Exchange Act Release No. 72434 (June 19, 2014), 79 FR 36110 (June 25, 2014) (SR–Phlx–2014–27).

[8] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the ''Limit Up-Limit Down Release'').

[9] *See* Securities Exchange Act Release No. 71783 (March 24, 2014), 79 FR 17617 (March 28, 2014) (SR–Phlx–2014–18).

[10] *See* supra notes 4–7. The prior versions of paragraphs (a)(2)(C), (b), and (c)(1) generally provided greater discretion to the Exchange with respect to breaking erroneous trades.

the Plan to operate on a permanent basis. Assuming the Plan is approved by the Commission to operate on a permanent, rather than pilot, basis the Exchange intends to assess whether additional changes should also be made to the operation of the clearly erroneous execution rules. Extending the effectiveness of Rule 3312 for an additional six months should provide the Exchange and other national securities exchanges additional time to consider further amendments to the clearly erroneous execution rules in light of the proposed Eighteenth Amendment to the Plan.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[11] in general, and Section 6(b)(5) of the Act,[12] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning review of transactions as clearly erroneous. The Exchange believes that extending the clearly erroneous execution pilot under Rule 3312 for an additional six months would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule change would also help assure consistent results in handling erroneous trades across the U.S. equities markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the amended Clearly Erroneous Transactions rule should continue to be in effect on a pilot basis while the Exchange and the other national securities exchanges consider and develop a permanent proposal for clearly erroneous execution reviews.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of harmonized clearly erroneous execution rules across the U.S. equities markets while the Exchange and other national securities exchanges consider further amendments to these rules in light of the proposed Eighteenth Amendment to the Plan. The Exchange understands that the other national securities exchanges and FINRA will also file similar proposals to extend their respective clearly erroneous execution pilot programs. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6)[15] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[16] 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 so that the proposed rule change may become effective and operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the current clearly erroneous execution pilot program to continue uninterrupted, without any changes, while the Exchange and the other national securities exchanges consider and develop a permanent proposal for clearly erroneous execution reviews. For this reason, the Commission hereby waives the 30-day operative delay requirement and designates the proposed rule change as operative upon filing.[17]

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–Phlx–2019–14 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number *SR–Phlx–2019–14.* 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

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] 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).

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–Phlx–2019–14 and should be submitted on or before May 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07631 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85617; File No. SR–NYSEAMER–2019–12]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot for Certain Options Market Rules That Are Linked to the Equity Market Plan To Address Extraordinary Market Volatility

April 11, 2019.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on April 5, 2019, NYSE American LLC (''NYSE American'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility. 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 purpose of the proposed rule change is to extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility (the ''Limit Up-Limit Down Plan'' or the ''Plan''). This change is being proposed in connection with a proposed amendment to the Limit Up-Limit Down Plan that would allow the Plan to continue to operate on a permanent basis (''Amendment 18'').

In an attempt to address extraordinary market volatility in NMS Stock, and, in particular, events like the severe volatility on May 6, 2010, U.S. national securities exchanges and the Financial Industry Regulatory Authority, Inc. (collectively, ''Participants'') drafted the Plan pursuant to Rule 608 of Regulation NMS and under the Act.[4] On May 31, 2012, the Commission approved the Plan, as amended, on a one-year pilot basis.[5] Though the Plan was primarily designed for equity markets, the Exchange believed it would, indirectly, potentially impact the options markets as well. Thus, the Exchange has previously amended and adopted Rule 953.1NY and Interpretation and Policy .03 to Rule 975NY to ensure the option markets were not harmed as a result of the Plan's implementation and has implemented such rules on a pilot basis that has coincided with the pilot period for the Plan (the ''Options Pilots'').[6]

The Commission recently published an Amendment 18, which would allow the Plan to operate on a permanent, rather than pilot, basis.[7] In connection with this change, the Exchange proposes to amend the Options Pilots to expire at the close of business on October 18, 2019—*i.e.,* six months after the expiration of the current pilot period for the Plan. Specifically, the Exchange proposes to amend Rule 953.1NY and Interpretation and Policy .03 to Rule 975NY to untie the Options Pilot's effectiveness from that of the Plan and to extend the Options Pilot's effectiveness to the close of business on October 18, 2019. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs, the substance of which are identical to the proposal.

The Exchange does not propose any additional changes to Rule 953.1NY and Interpretation and Policy .03 to Rule 975NY. The Exchange believes the benefits to market participants from the Options Pilots should continue on a limited six month pilot basis after Commission approves the Plan to operate on a permanent basis. Assuming the Plan is approved by the Commission to operate on a permanent, rather than pilot, basis the Exchange intends to assess whether additional changes should also be made to the Options Pilots. Extending the Options Pilots for an additional six months should provide the Exchange and other national securities exchanges additional time to consider further amendments to their rules in light of proposed Amendment 18.

[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. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011) (File No. 4–631).

[5] *See* Securities and Exchange Act Release No. 67091 (May 31, 2012) 77 FR 33498 (June 6, 2012).

[6] *See* Securities Exchange Act Release Nos. 69339 (April 8, 2013), 78 FR 22011 (April 12, 2013) (SR–NYSEMKT–2013–10) (amending certain options rules to coincide with the pilot period for the Plan, including Rule 953NY and Rule 953.1NY); and 76248 (October 23, 2015), 80 FR 66591 (October 29, 2015) (SR–NYSEMKT–2015–88) (amending Rules 953.1NY and 975NY to coincide with the pilot period for the Plan).

[7] *See* Securities Exchange Act Release Nos. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (Amendment No. 18 Proposing Release).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[8] in general, and Section 6(b)(5) of the Act,[9] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning rules for options markets adopted to coincide with the Plan. The Exchange believes that extending the Options Pilots for an additional six months would help assure that the rules subject to such Pilots are either similarly made permanent, amended or removed, following additional discussion and analysis by the Exchange and other national securities exchanges. The proposed rule change would also help assure that such rules are not immediately eliminated, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the Options Pilots should continue to be in effect on a pilot basis while the Exchange and the other national securities exchanges consider and develop a permanent proposal for such rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of the Options Pilots while the Exchange and other national securities exchanges consider further amendments to these rules in light of proposed Amendment 18. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs, the substance of which are identical to this proposal. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6)[12] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[13] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become effective and operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the current Options Pilots to continue uninterrupted, without any changes, while the Exchange and the other national securities exchanges consider and develop a permanent proposal for Options Pilots. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (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.

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–NYSEAMER–2019–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2019–12. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should

submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2019–12 and should be submitted on or before May 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07621 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33446; 812–14981]

Roundhill Financial LLC and Listed Funds Trust

April 12, 2019.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) index-based series of certain open-end management investment companies (''Funds'') to issue shares redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (''Funds of Funds'') to acquire shares of the Funds.

APPLICANTS: Roundhill Financial LLC (the ''Initial Adviser''), a Delaware limited liability company that will be registered as an investment adviser under the Investment Advisers Act of 1940, and Listed Funds Trust (the ''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series.

FILING DATES: The application was filed on November 30, 2018, and amended on April 2, 2019.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 7, 2019 and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants: Roundhill Financial LLC, 575 5th Avenue, 14th Floor, New York, NY 10017; and Listed Funds Trust, c/o U.S. Bancorp Fund Services, LLC, 615 East Michigan Street, Milwaukee, WI 53202.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 551–6990, or Andrea Ottomanelli Magovern, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. Applicants request an order that would allow Funds to operate as index exchange traded funds (''ETFs'').[1] Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an ''Authorized Participant'', which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will hold investment positions selected to correspond generally to the performance of an Underlying Index. In the case of Self-Indexing Funds, an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of the Trust or a Fund, of the Adviser, of any sub-adviser to or promoter of a Fund, or of the Distributor will compile, create, sponsor or maintain the Underlying Index.[2]

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments (''Deposit Instruments''), and shareholders redeeming their shares will receive specified instruments (''Redemption Instruments''). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act

[1] Applicants request that the order apply to Roundhill Global Esports ETF (the ''Initial Fund''), a new series of the Trust, and any additional series of the Trust, and any other open-end management investment company or series thereof (''Future Funds'' and together with the Initial Fund, ''Funds''), each of which will operate as an ETF and will track a specified index comprised of domestic and/or foreign equity securities and/or domestic and/or foreign fixed income securities (each, an ''Underlying Index''). Each Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each such entity and any successor thereto, an ''Adviser'') and (b) comply with the terms and conditions of the application. For purposes of the requested order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Each Self-Indexing Fund will post on its website the identities and quantities of the investment positions that will form the basis for the Fund's calculation of its NAV at the end of the day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will help address, together with other protections, conflicts of interest with respect to such Funds.

that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c–1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that effect creations and redemptions of Creation Units in kind and that are based on certain Underlying Indexes that include foreign securities, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second-Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments and Redemption Instruments will be valued in the same manner as those investment positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[3] The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

[3] The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07718 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85636; File No. SR–CboeBZX–2019–021]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend the Fee Schedule Applicable to Members and Non-Members of the Exchange Pursuant to BZX Rules 15.1(a) and (c)

April 12, 2019.

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 March 29, 2019, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the 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

BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the fee schedule applicable to Members and non-Members [4] of the Exchange pursuant to BZX Rules 15.1(a) and (c). The text of the proposed rule change is attached as Exhibit 5 [sic].

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] A Member is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' See Exchange Rule 1.5(n).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule applicable to its equities trading platform (''BZX Equities'') to add a Non-Displayed Add Volume Tier, effective April 1, 2019.

The Exchange currently offers three Non-Displayed Add Volume Tiers under footnote 1, which provide an enhanced rebate between $0.0018 to $0.0025 per share for qualifying Tape A, B, and C non-displayed orders that add liquidity (*i.e.,* yield fee codes HV, HB, and HY, respectively). The Exchange now proposes to add a fourth Non-Displayed Add Volume Tier. Under the proposed Non-Displayed Add Volume Tier 4, a Member may receive an enhanced rebate of $0.0029 per share where they add an ADV [5] greater than or equal to 0.38% of the TCV [6] as Non-Displayed orders that yield fee codes HB, HI,[7] HV or HY. The Exchange believes the proposed new tier will encourage Members to increase their liquidity on the exchange.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,[8] in general, and furthers the objectives of Section 6(b)(4),[9] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule changes reflect a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange.

In particular, the Exchange notes that volume-based rebates such as that proposed herein have been widely adopted by exchanges, including the Exchange, and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to: (i) The value to an exchange's market quality; (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns; and (iii) introduction of higher volumes of orders into the price and volume discovery processes. The Exchange believes that the proposed tier is a reasonable, fair and equitable, and not unfairly discriminatory allocation of fees and rebates because it will provide Members with an incentive to reach certain thresholds on the Exchange.

More specifically, the Exchange believes the proposed Non-Displayed Add Volume Tier 4 is a reasonable means to encourage Members to increase their liquidity on the Exchange. The Exchange further believes that the proposed tier represents an equitable allocation of reasonable dues, fees, and other charges because the threshold necessary to achieve the tier encourages Members to add increased liquidity on BZX each month. The increased liquidity benefits all investors by deepening the Exchange's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. The Exchange also believes that the proposed rebate is reasonable based on the difficulty of satisfying the tier's criteria as compared to the existing Non-Displayed Add Volume tiers, which provide lower rebates and similar, but less stringent, criteria. Furthermore, the Exchange believes that the proposed tier is not unfairly discriminatory as it applies to all members that meet the required criteria.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed change burdens competition, but rather, enhances competition as it is intended to increase the competitiveness of BZX by adopting an additional pricing incentive in order to attract order flow and incentivize participants to increase their participation on the Exchange. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures to be unreasonable or excessive. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange also notes that the proposed change is intended to enhance the rebate for liquidity added to the Exchange, which is intended to draw additional liquidity to the Exchange to the benefit of all market participants. The Exchange does not believe the proposed amendment would burden intramarket competition as it would be available to all Members uniformly.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act,[10] and subparagraph (f)(2) of Rule 19b–4 [11] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of

[5] ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day. ADAV and ADV are calculated on a monthly basis. *See* Exchange Fee Schedule.

[6] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. *Id.*

[7] Fee code HI is appended to non-displayed orders that receive price improvement and add liquidity. *Id.*

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(2).

the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [12] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2019–021 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2019–021. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2019–021 and should be submitted on or before May 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07705 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(2)(B).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85603; File No. SR–NASDAQ–2019–028]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Current Pilot Program Related to Clearly Erroneous Transactions

April 11, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 9, 2019, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the current pilot program related to Nasdaq Rule 11890, Clearly Erroneous Transactions, to the close of business on October 18, 2019.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the current pilot program related to Rule 11890, Clearly Erroneous Transactions, to the close of business on October 18, 2019. This change is being proposed in connection with proposed amendments to the Plan to Address Extraordinary Market Volatility (the ''Limit Up-Limit Down Plan'' or the ''Plan'') that would allow the Plan to continue to operate on a permanent basis.[3]

On September 10, 2010, the Commission approved, on a pilot basis, changes to Rule 11890 that, among other things: (i) Provided for uniform treatment of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (ii) reduced the ability of the Exchange to deviate from the objective standards set forth in the rule.[4] In 2013, the Exchange adopted a provision designed to address the operation of the Plan.[5] Finally, in 2014, the Exchange adopted two additional provisions providing that: (i) A series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information resulting in a severe valuation error for all such transactions; and (ii) in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of an Exchange, another SRO, or responsible single plan processor in connection with the transmittal or receipt of a trading halt, an Officer, acting on his or her own motion, shall nullify any transaction that occurs after a trading halt has been declared by the primary listing market for a security and before such trading halt has officially ended according to the primary listing

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (File No. 4–631) (''Eighteenth Amendment'').

[4] *See* Securities Exchange Act Release No. 62886 (September 10, 2010), 75 FR 56613 (September 16, 2010) (SR–NASDAQ–2010–076).

[5] *See* Securities Exchange Act Release No. 68819 (February 1, 2013), 78 FR 9438 (February 8, 2013) (SR–NASDAQ–2013–022).

market.[6] These changes are currently scheduled to operate for a pilot period that coincides with the pilot period for the Limit Up-Limit Down Plan,[7] including any extensions to the pilot period for the Plan.[8]

The Commission recently published the proposed Eighteenth Amendment to the Plan to allow the Plan to operate on a permanent, rather than pilot, basis. The Exchange proposes to amend Rule 11890 to untie the pilot program's effectiveness from that of the Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019—*i.e.,* six months after the expiration of the current pilot period for the Plan. If the pilot period is not either extended, replaced or approved as permanent, the prior versions of paragraphs (a)(2)(C), (c)(1), (b)(i), and (b)(ii) shall be in effect, and the provisions of paragraphs (g) through (i) shall be null and void.[9] In such an event, the remaining sections of Rule 11890 would continue to apply to all transactions executed on the Exchange. The Exchange understands that the other national securities exchanges and Financial Industry Regulatory Authority (''FINRA'') will also file similar proposals to extend their respective clearly erroneous execution pilot programs, the substance of which are identical to Rule 11890.

The Exchange does not propose any additional changes to Rule 11890. The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a limited six month pilot basis after Commission approves the Plan to operate on a permanent basis. Assuming the Plan is approved by the Commission to operate on a permanent, rather than pilot, basis the Exchange intends to assess whether additional changes should also be made to the operation of the clearly erroneous execution rules. Extending the effectiveness of Rule 11890 for an additional six months should provide the Exchange and other national securities exchanges additional time to consider further amendments to the clearly erroneous execution rules in light of the proposed Eighteenth Amendment to the Plan.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[10] in general, and Section 6(b)(5) of the Act,[11] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning review of transactions as clearly erroneous. The Exchange believes that extending the clearly erroneous execution pilot under Rule 11890 for an additional six months would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule change would also help assure consistent results in handling erroneous trades across the U.S. equities markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the amended Clearly Erroneous Transactions rule should continue to be in effect on a pilot basis while the Exchange and the other national securities exchanges consider and develop a permanent proposal for clearly erroneous execution reviews.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of harmonized clearly erroneous execution rules across the U.S. equities markets while the Exchange and other national securities exchanges consider further amendments to these rules in light of the proposed Eighteenth Amendment to the Plan. The Exchange understands that the other national securities exchanges and FINRA will also file similar proposals to extend their respective clearly erroneous execution pilot programs. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

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 Act[12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6)[14] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[15] 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 so that the proposed rule change may become effective and operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the current clearly erroneous execution pilot program to continue uninterrupted, without any changes, while the Exchange and the other national securities exchanges consider and develop a permanent proposal for clearly erroneous execution reviews. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[16]

[6] *See* Securities Exchange Act Release No. 72434 (June 19, 2014), 79 FR 36110 (June 25, 2014) (SR–NASDAQ–2014–044).

[7] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the ''Limit Up-Limit Down Release'').

[8] *See* Securities Exchange Act Release No. 71785 (March 24, 2014), 79 FR 17621 (March 28, 2014) (SR–NASDAQ–2014–028).

[9] *See* supra notes 4–6. The prior versions of paragraphs (a)(2)(C), (c)(1), (b)(i), and (b)(ii) generally provided greater discretion to the Exchange with respect to breaking erroneous trades.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 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] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on

Continued

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–NASDAQ–2019–028 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–2019–028. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2019–028 and should be submitted on or before May 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07633 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85620; File No. SR–NYSEARCA–2019–25]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the NYSE Arca Options Fee Schedule

April 11, 2019.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 9, 2019, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to modify the NYSE Arca Options Fee Schedule (''Fee Schedule''). The Exchange proposes to implement the fee change effective April 9, 2019.[4] The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to modify the Fee Schedule, effective April 9, 2019, to amend the criteria for achieving a discount on the LMM Rights Fee.

The LMM Rights Fee (''Rights Fee'') is charged ''on a per issue basis to the OTP Firm acting as LMM in the issue.''[5] The Exchange charges a Rights Fee on each issue in a LMM's allocation, with rates based on the Average National Daily Customer Contracts. LMMs are also able to achieve a 50% discount to their total monthly Rights Fee by achieving daily contract volume traded electronically of at least 0.40% Total Industry Customer equity and ETF option ADV (''TCADV), of which 0.08% TCADV are in its LMM appointment (the ''Discount'').[6] The Exchange proposes to modify the criteria for achieving the Discount in two ways. First, the Exchange proposes to reduce the minimum TCADV threshold from 0.40% to 0.32%, but still

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] On March 29, 2019, the Exchange filed to amend the Fee Schedule for effectiveness on April 1, 2019 (SR–NYSEArca–2019–20) and withdrew such filing on April 9, 2019.

[5] *See* Fee Schedule, Endnote 2, *available here, https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf. See also,* Fee Schedule, NYSE Arca General Options and Trading Permit (OTP) Fee, Lead Market Maker Rights Fee. Because the Fee Schedule already reflects that Endnote 2 applies to all issues in an LMM's appointment, regardless of the Average National Daily Customer Contracts, the Exchange proposes to remove the references to Endnote 2 that appear next to the Rights Fee for issues with applicable volume of 0–2,000. *See* proposed Fee Schedule, NYSE Arca General Options and Trading Permit (OTP) Fee, Lead Market Maker Rights Fee.

[6] *See id.* (providing the Discount criteria). The Exchange also offers activity-based discounts (*i.e.,* on total electronic volume and total posted volume) to LMMs with the most actively traded issues in their appointment. The Discount is applied to the total monthly rights fee after any such discounts are applied. The Exchange is not proposing any changes to the activity-based discounts to the LMM Rights Fee.

require that 0.08% TCADV be in its LMM appointment.[7] The Exchange also proposes to add an alternative means of achieving the Discount. As proposed, if an LMM achieves at least 0.75% of TCADV in manual transactions in all account types, which may include ''transaction volume from the OTP Holder's or OTP Firm's affiliates (per Endnote 8) or Appointed OFP (per Endnote 15),'' which Endnotes define affiliates and Appointed OFPs, respectively, that LMM could also qualify for the Discount.[8] The Exchange would continue to determine whether an LMM qualifies for the Discount based on the daily contract volume traded electronically in a calendar month. The Exchange proposes to further amend the Fee Schedule so that it would determine whether the LMM qualifies for the Discount by also assessing the daily contract volume traded manually by an LMM and affiliated/appointed entities each trading day in a calendar month.[9]

The Exchange believes the proposed modifications would encourage LMMs to apply for issues to be added to their appointment, and to encourage participation in manual transactions.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act, in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that providing modifications to the Rights Fee is reasonable, equitable, and not unfairly discriminatory because, among other things, it makes the Discount more achievable by lowering the threshold for electronic transactions and providing an alternative means of achieving the Discount based on manual transactions. The proposed Discount is not unfairly discriminatory because Rights Fees are only assessed on LMMs and there is only one LMM per issue. The proposed reduction of the existing qualifying threshold would make the Discount more achievable for LMMs and may encourage LMMs to apply for issues to be added to their appointment. The proposed new alternative threshold, which allows LMMs to pool their manual volume with affiliates and/or Appointed OFPs, is reasonable, equitable, and not unfairly discriminatory because it would encourage participation in manual transactions. Any increase in volume executed in open outcry on the Exchange would benefit all market participants by expanding liquidity and providing more trading opportunities, even to market participants that do not execute manual transactions. The Exchange notes that allowing market participants to aggregate volume with affiliates or Appointed OFPs (or Appointed Market Makers) is not new or novel, as the Exchange allows OTPs to aggregate such volume for purposes of meeting certain pricing Tiers/Incentives.[10] The Exchange believes that the qualifying threshold for this alternative basis for achieving the Discount is reasonable, equitable, and not unfairly discriminatory because it is more than double the proposed new threshold that is based solely on LMM volume (*i.e.,* 0.32% v. 0.75%) and therefore ensures that LMMs that do not have affiliates/Appointed OFPs and/or do not transact significant manual volume would continue to have the ability to meet the criteria for the Discount.

The Exchange believes the proposed modification would provide meaningful criteria for LMMs to qualify for credits for executing desired volume on the Exchange, and provides additional incentive for LMMs to have affiliated or appointed order flow directed to the Exchange.

The Exchange believes that the technical change to remove extraneous and potentially confusing references to Endnote 2 in regards to the LMM Rights Fee as well as to reorganize the sentence that explains the Discount and its qualification criteria would add clarity, transparency and internal consistency to the Fee Schedule making it easier for market participants to navigate and comprehend.[11]

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, 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. First, because the LMM Rights Fee is charged only to LMM firms, market participants other than LMM firms are not directly impacted by this change. The Exchange believes that the proposal to adjust the criteria (and add new basis) for LMMs to qualify for the Discount (making it more achievable) may encourage LMMs to apply for issues to be added to their appointment and may attract additional liquidity to the Exchange (including open outcry transactions). To the extent this result is achieved, the increase in volume would benefit all market participants by providing more trading opportunities, including to market participants that do not execute manual transactions. The Exchange does not believe that the proposed changes would impair the ability of any market participants or competing order execution venues to maintain their competitive standing in the financial markets. The Exchange believes the proposed modification provides additional incentive for LMMs to have affiliated or appointed order flow directed to the Exchange, which benefits all market participants. To the extent that an LMM does not have any affiliates or an Appointed OFP, the LMM is still able eligible for the Discount by achieving the modified (and reduced) TCADV criteria.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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.

[7] *See* proposed Fee Schedule, Endnote 2. The Exchange also proposes to restructure the sentence regarding the Discount to put the amount of the Discount first, followed by the criteria needed to achieve the discount, which would add clarity and transparency to the Fee Schedule making it easier to navigate and comprehend. *See id.*

[8] *See id.* Endnote 8 of the Fee Schedule cites to Rule 1.1(a), which defines an affiliate as being a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified). Endnote 15 of the Fee Schedule, an ''Appointed OFP'' is an OFP that has been designated by an NYSE Arca Market Maker for purposes of the Fee Schedule.

[9] *See* proposed Fee Schedule, Endnote 2.

[10] *See e.g.,* NYSE Arca OPTIONS: TRADE-RELATED CHARGES FOR STANDARD OPTIONS (which sets forth the various programs for achieving certain credits based on posted volume, each of which cite Endnote 8, which provides that ''calculations for qualifications for monthly posting credits or discounts only include electronic executions and the Exchange will include the activity of either (i) affiliates or (ii) an Appointed OFP or Appointed MM, per Endnote 15''). *See* Fee Schedule Endnote 15 for description of affiliates and Appointed OFPs and Appointed MMs.

[11] *See supra* nn. 5, 7.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [12] of the Act and subparagraph (f)(2) of Rule 19b–4 [13] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [14] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2019–25 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2019–25. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of 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–2019–25, and should be submitted on or beforeMay 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07620 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(2).

[14] 15 U.S.C. 78s(b)(2)(B).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85629; File No. SR–Phlx–2019–11]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot to the Close of Business on October 18, 2019

April 11, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 5, 2019, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I 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 extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility (the ''Limit Up-Limit Down Plan'' or the ''Plan''). This change is being proposed in connection with a proposed amendment to the Limit Up-Limit Down Plan that would allow the Plan to continue to operate on a permanent basis (''Amendment 18'').

In an attempt to address extraordinary market volatility in NMS Stock, and, in particular, events like the severe volatility on May 6, 2010, U.S. national securities exchanges and the Financial Industry Regulatory Authority, Inc. (collectively, ''Participants'') drafted the Plan pursuant to Rule 608 of Regulation NMS and under the Act.[3] On May 31, 2012, the Commission approved the Plan, as amended, on a one-year pilot basis.[4] Though the Plan was primarily

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011) (File No. 4–631).

[4] *See* Securities and Exchange Act Release No. 67091 (May 31, 2012) 77 FR 33498 (June 6, 2012).

designed for equity markets, the Exchange believed it would, indirectly, potentially impact the options markets as well. Thus, the Exchange has previously amended and adopted Rule 1047(d) to ensure the option markets were not harmed as a result of the Plan's implementation and has implemented such rules on a pilot basis that has coincided with the pilot period for the Plan (the ''Options Pilots'').[5]

The Commission recently published an Amendment 18, which would allow the Plan to operate on a permanent, rather than pilot, basis.[6] In connection with this change, the Exchange proposes to amend the Options Pilots to expire at the close of business on October 18, 2019—*i.e.,* six months after the expiration of the current pilot period for the Plan. Specifically, the Exchange proposes to amend Exchange Rules 1047(d) to untie the Options Pilot's effectiveness from that of the Plan and to extend the Options Pilot's effectiveness to the close of business on October 18, 2019. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs, the substance of which are identical to the proposal.

The Exchange does not propose any additional changes to Exchange Rule 1047. The Exchange believes the benefits to market participants from the Options Pilots should continue on a limited six month pilot basis after Commission approves the Plan to operate on a permanent basis. Assuming the Plan is approved by the Commission to operate on a permanent, rather than pilot, basis the Exchange intends to assess whether additional changes should also be made to the Options Pilots. Extending the Options Pilots for an additional six months should provide the Exchange and other national securities exchanges additional time to consider further amendments to their rules in light of proposed Amendment 18.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[7] in general, and Section 6(b)(5) of the Act,[8] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning rules for options markets adopted to coincide with the Plan. The Exchange believes that extending the Options Pilots for an additional six months would help assure that the rules subject to such Pilots are either similarly made permanent, amended or removed, following additional discussion and analysis by the Exchange and other national securities exchanges. The proposed rule change would also help assure that such rules are not immediately eliminated, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the Options Pilots should continue to be in effect on a pilot basis while the Exchange and the other national securities exchanges consider and develop a permanent proposal for such rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of the Options Pilots while the Exchange and other national securities exchanges consider further amendments to these rules in light of proposed Amendment 18. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs, the substance of which are identical to this proposal. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

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 Act[9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[12] 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 so that the proposed rule change may become effective and operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the current Options Pilots to continue uninterrupted, without any changes, while the Exchange and the other national securities exchanges consider and develop a permanent proposal for Options Pilots. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (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

[5] *See* Securities Exchange Act Release No. 69141 (March 15, 2013), 78 FR 17262 (March 20, 2013) (SR–Phlx–2013–29) (amending Rule 1047 to coincide with the pilot period for the Plan).

[6] *See* Securities Exchange Act Release Nos. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (Amendment No. 18 Proposing Release).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6). 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.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–Phlx–2019–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2019–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2019–11 and should be submitted on or beforeMay 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07613 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:

Form N–MFP and Rule 30b1–7, SEC File No. 270–604, OMB Control No. 3235–0657.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Section 30(b) of the Investment Company Act of 1940 (''Investment Company Act'')[1] provides that ''[e]very registered investment company shall file with the Commission . . . such information, documents, and reports (other than financial statements), as the Commission may require to keep reasonably current the information and documents contained in the registration statement of such company . . . .''[2] Rule 30b1–7 under the Investment Company Act, entitled ''Monthly Report for Money Market Funds,'' provides that every registered investment company, or series thereof, that is regulated as a money market funds under rule 2a–7[3] must file with the Commission a monthly report of portfolio holdings on Form N–MFP[4] no later than the fifth business day of each month.[5] Form N–MFP sets forth the specific disclosure items that money market funds must provide. Filers must submit this report electronically using the Commission's electronic filing system (''EDGAR'') in Extensible Markup Language (''XML'') format.

Compliance with rule 30b1–7 is mandatory for any fund that holds itself out as a money market fund in reliance on rule 2a–7. Responses to the disclosure requirements will not be kept confidential. 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 following estimates of average burden hours and costs are made solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms. A fund must comply with the requirement to prepare Form N–MFP in order to hold itself out to investors as a money market fund or the equivalent of a money market fund in reliance on rule 2a–7. The collection of information is mandatory for money market funds that rely on rule 2a–7, and responses to the information collections will not be kept confidential.

The Commission estimates there are currently 429[6] money market funds that report information on Form N–MFP, with approximately 10[7] of them being new money market funds that are filing reports on Form N–PORT for the first time.

We estimate that 35% of money market funds (or 150 money market funds, broken down into 146 existing funds and 4 new funds)[8] license a software solution and file reports on Form N–MFP in house; we further estimate that each fund that files reports on Form N–MFP in house requires an average of approximately 47 burden hours to compile (including review of the information), tag, and electronically file the Form N–MFP for the first time and an average of approximately 13 burden hours for subsequent filings.[9] Therefore, we estimate the per fund average annual hour burden is 96

[1] 15 U.S.C. 80a–1 *et seq.*

[2] 15 U.S.C. 80a–30(b).

[3] 17 CFR 270.2a–7.

[4] 17 CFR 274.201.

[5] 17 CFR 270.30b1–7.

[6] This estimate is based on staff review of reports on Form N–MFP filed with the Commission for the month ended February 28, 2018.

[7] This estimate is based on staff review of reports on Form N–MFP filed with the Commission for 2015 (1 new filer), 2016 (23 new filers), and 2017 (6 new filers). Amortizing those numbers over three years provides an estimate of 10 new filers per year.

[8] The estimate is based on the following calculation: (429 money market funds × 35% = 150 money market funds. Of that amount, we estimate that 4 are new money market funds (10 new money market fund filers each year × 35% = 3.5 funds, rounded to 4). Therefore, 150 money market funds—4 new money market funds = 146 existing money market funds.

[9] We understand that the required information is currently maintained by money market funds pursuant to other regulatory requirements or in the ordinary course of business. Accordingly, for the purposes of our analysis, we do not ascribe any time to producing the required information.

hours [10] for existing funds and 130 hours [11] for new money market funds. Based on an estimate of 146 existing fund filers and 4 new fund filers each year, we estimate that filing reports on Form N–MFP in house takes 23,536 hours and costs funds, in aggregate, $6,754,832 per year.[12]

We estimate that 65% of money market funds (or 279 money market funds, broken down into 272 existing fund and 7 new funds) [13] retain the services of a third party to provide data aggregation and validation services as part of the preparation and filing of reports on Form N–MFP on the fund's behalf; we further estimate that each fund requires an average of approximately 26 burden hours to compile and review the information with the service provider prior to electronically filing the report for the first time and an average of approximately 9 burden hours for subsequent filings. Therefore, we estimate the per fund average annual hour burden is 108 hours [14] for existing funds and 125 hours [15] for new money market funds. Based on an estimate of 272 existing fund filers and 7 new fund filers each year, we estimate that filing reports on Form N–MFP using a service provider takes 41,131 hours and costs funds, in aggregate, $8,682,037 per year.[16] In sum, we estimate that filing reports on Form N–MFP imposes a total annual hour burden of 64,667 hours,[17] at an aggregate cost of $15,436,869 on all money market funds.[18]

Cost to Respondents

Cost burden is the cost of goods and services purchased in connection with complying with the collection of information requirements of rule 30b1–7 and Form N–MFP. The cost burden does not include the cost of the hour burden discussed in Item 12 above.

Based on discussions with industry participants, we estimate that money market funds that file reports on Form N–MFP in house license a third-party software solution to assist in filing their reports at an average cost of $3,900 per fund per year. In addition, we estimate that money market funds that use a service provider to prepare and file reports on Form N–MFP pay an average fee of $9,300 per fund per year. In sum, we estimate that all money market funds incur on average, in the aggregate, external annual costs of $3,179,700.[19]

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov;* and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: April 12, 2019.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07658 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

[10] This estimate is based on the following calculation: 12 filings per year × 13 burden hours per filing = 156 burden hours per year.

[11] This estimate is based on the following calculation: (First month's initial filing × 47 burden hours) + (11 subsequent month filings × 13 burden hours per filing) = 190 burden hours per year.

[12] These estimates are based on the following calculations: Existing fund filers: (156 hours × blended hourly rate of $287 for a Financial Reporting Manager ($280 per hour), Fund Senior Accountant ($209 per hour), Senior Database Administrator ($329 per hour), Senior Portfolio Manager ($317 per hour), Compliance Manager ($298 per hour)) = $44,772. The blended hourly rate was calculated as ($280 + $209 + $329 + $317 + 209)/5 = $287. There are 146 existing money market funds who use in house solutions × 156 hours with a monetized cost of $44,772 per fund = 22,776 hours with a monetized cost of $6,536,712.

New money market fund filers: (190 hours × blended hourly rate of $287 for a Financial Reporting Manager ($280 per hour), Fund Senior Accountant ($209 per hour), Senior Database Administrator ($329 per hour), Senior Portfolio Manager ($317 per hour), Compliance Manager ($298 per hour)) = $54,530. The blended hourly rate was calculated as ($280 + $209 + $329 + $317 + 209)/5 = $287. Four new money market funds × 190 hours with a monetized cost of $54,530 per fund = 760 hours with a monetized cost of $218,120.

Aggregate annual hourly burden for all funds filing reports on Form N–MFP in house: 22,776 hours + 760 hours = 23,536 hours.

Aggregate annual costs for all funds filing reports on Form N–MFP in house: $6,536,712 + $218,120 = $6,754,832.

[13] The estimate is based on the following calculation: (429 money market funds × 65% = 279 money market funds. Of that amount, we estimate that 7 are new money market funds (10 new money market fund filers each year × 65% = 6.5 funds, rounded to 7). Therefore, 279 money market funds—7 new money market funds = 272 existing money market funds.

[14] This estimate is based on the following calculation: 12 filings per year × 9 burden hours per filing = 108 burden hours per year.

[15] This estimate is based on the following calculation: (First month's initial filing × 26 burden hours) + (11 subsequent month filings × 9 burden hours per filing) = 125 burden hours per year.

[16] These estimates are based on the following calculations: Existing fund filers: (108 hours × blended hourly rate of $287 for a Financial Reporting Manager ($280 per hour), Fund Senior Accountant ($209 per hour), Senior Database Administrator ($329 per hour), Senior Portfolio Manager ($317 per hour), Compliance Manager ($298 per hour)) = $30,996. The blended hourly rate was calculated as ($280 + $209 + $329 + $317 + 209)/5 = $287. There are 272 existing money market funds who use a third-party service provider × 148 hours with a monetized cost of $30,996 per fund = 40,256 hours with a monetized cost of $8,430,912.

New money market fund filers: (125 hours × blended hourly rate of $287 for a Financial Reporting Manager ($280 per hour), Fund Senior Accountant ($209 per hour), Senior Database Administrator ($329 per hour), Senior Portfolio Manager ($317 per hour), Compliance Manager ($298 per hour)) = $35,875. The blended hourly rate was calculated as ($280 + $209 + $329 + $317 + 209)/5 = $287. Seven new money market funds × 125 hours with a monetized cost of $35,875 per fund = 875 hours with a monetized cost of $251,125.

Aggregate annual hourly burden for all funds filing reports on Form N–MFP in house: 40,256 hours + 875 hours = 41,131 hours.

Aggregate annual costs for all funds filing reports on Form N–MFP in house: $8,430,912 + $251,125 = $8,682,037.

[17] This estimate is based on the following calculation: 23,536 hours for filers licensing a software solution and filing in-house + 41,131 hours for filers using a third-party service provider = 64,667 hours in total.

[18] This estimate is based on the following calculation: $6,754,832 (in-house filers) + $8,682,037 (filers using a service provider) = $15,436,869.

[19] This estimate is based on the following calculation: (150 money market funds (146 existing funds + 4 new funds) that file reports on Form N–MFP in house × $3,900 per fund, per year) + (279 money market funds (272 existing funds + 7 new funds) that file reports on Form N–MFP using a service provider × $9,300 per fund, per year) = $3,179,700.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85604; File No. SR–CboeBZX–2019–026]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot for Certain Options Market Rules That Are Linked to the Equity Market Plan To Address Extraordinary Market Volatility

April 11, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 9, 2019, 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility. The text of the proposed rule change is attached as Exhibit 5 [sic].

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 the proposed rule change is to extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility (the ''Limit Up-Limit Down Plan'' or the ''Plan''). This change is being proposed in connection with a proposed amendment to the Limit Up-Limit Down Plan that would allow the Plan to continue to operate on a permanent basis (''Amendment 18'').

In an attempt to address extraordinary market volatility in NMS Stock, and, in particular, events like the severe volatility on May 6, 2010, U.S. national securities exchanges and the Financial Industry Regulatory Authority, Inc. (collectively, ''Participants'') drafted the Plan pursuant to Rule 608 of Regulation NMS and under the Act.[3] On May 31, 2012, the Commission approved the Plan, as amended, on a one-year pilot basis.[4] Though the Plan was primarily designed for equity markets, the Exchange believed it would, indirectly, potentially impact the options markets as well. Thus, the Exchange has previously adopted Interpretation and Policy .01 to Rule 20.6 to ensure the option markets were not harmed as a result of the Plan's implementation and has implemented such rule on a pilot basis that has coincided with the pilot period for the Plan (the ''Options Pilot'').[5]

The Commission recently published an Amendment 18, which would allow the Plan to operate on a permanent, rather than pilot, basis.[6] In connection with this change, the Exchange proposes to amend the Options Pilot to expire at the close of business on October 18, 2019—*i.e.,* six months after the expiration of the current pilot period for the Plan. Specifically, the Exchange proposes to amend Interpretation and Policy .01 to Rule 20.6 to untie the Options Pilot's effectiveness from that of the Plan and to extend the Options Pilot's effectiveness to the close of business on October 18, 2019. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs, the substance of which are identical to the proposal.

The Exchange does not propose any additional changes to Interpretation and Policy .01 to Rule 20.6. The Exchange believes the benefits to market participants from the Options Pilot should continue on a limited six month pilot basis after Commission approves the Plan to operate on a permanent basis. Assuming the Plan is approved by the Commission to operate on a permanent, rather than pilot, basis the Exchange intends to assess whether additional changes should also be made to the Options Pilot. Extending the Options Pilot for an additional six months should provide the Exchange and other national securities exchanges additional time to consider further amendments to their rules in light of proposed Amendment 18.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[7] in general, and Section 6(b)(5) of the Act,[8] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning rules for options markets adopted to coincide with the Plan. The Exchange believes that extending the Options Pilot for an additional six months would help assure that the rules subject to such Pilot are either similarly made permanent, amended or removed, following additional discussion and analysis by the Exchange and other national securities exchanges. The proposed rule change would also help assure that such rules are not immediately eliminated, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the Options Pilot should continue to be in effect on a pilot basis while the Exchange and the other national securities exchanges consider and develop a permanent proposal for such rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of the Options Pilot while the Exchange and other national securities exchanges consider further amendments to these rules in light of proposed Amendment 18. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs, the substance of which are identical to this proposal. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

[3] *See* Securities Exchange Act Release No. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011) (File No. 4–631).

[4] *See* Securities and Exchange Act Release No. 67091 (May 31, 2012) 77 FR 33498 (June 6, 2012).

[5] *See* Securities Exchange Act Release No. 76231 (October 22, 2015), 80 FR 66069 (October 28, 2015) (SR–BATS–2015–91) (amending Interpretation and Policy .01 to Rule 20.6 to coincide with the pilot period for the Plan).

[6] *See* Securities Exchange Act Release Nos. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (Amendment No. 18 Proposing Release).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No comments were solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) [11] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [12] 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 so that the proposed rule change may become effective and operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the current the Options Pilot to continue uninterrupted, without any changes, while the Exchange and the other national securities exchanges consider and develop a permanent proposal for the Options Pilot. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (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–CboeBZX–2019–026 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2019–026. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2019–026 and should be submitted on or before May 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07632 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6). 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.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85608; File No. SR–PEARL–2019–13]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX PEARL Fee Schedule

April 11, 2019.

Pursuant to the provisions of 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 March 29, 2019, MIAX PEARL, LLC (''MIAX PEARL'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX PEARL Fee Schedule (the ''Fee Schedule'').

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX PEARL's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 Add/Remove Tiered Rebates/Fees set forth in Section (1)(a) of the Fee Schedule to (i) establish that Members [3] may qualify for an alternative lower Taker fee for Penny classes for their Firm Origin orders when trading contra to Origins other than Priority Customer [4] if certain thresholds are satisfied by the Member; and (ii) change the volume criteria for Members to qualify for alternative Maker rebates for certain options transactions in all classes for Non-Priority Customers, Firms, Broker-Dealers and Non-MIAX PEARL Market Makers (collectively herein ''Professional Members'').

The Exchange currently assesses transaction rebates and fees to all market participants which are based upon the total monthly volume executed by the Member on MIAX PEARL in the relevant, respective origin type (not including Excluded Contracts) [5] expressed as a percentage of TCV.[6] In addition, the per contract transaction rebates and fees are applied retroactively to all eligible volume for that origin type once the respective threshold tier (''Tier'') has been reached by the Member. The Exchange aggregates the volume of Members and their Affiliates.[7] Members that place resting liquidity, *i.e.,* orders resting on the book of the MIAX PEARL System,[8] are paid the specified ''maker'' rebate (each a ''Maker''), and Members that execute against resting liquidity are assessed the specified ''taker'' fee (each a ''Taker''). For opening transactions and ABBO uncrossing transactions, per contract transaction rebates and fees are waived for all market participants. Finally, Members are assessed lower transaction fees and receive lower rebates for order executions in standard option classes in the Penny Pilot Program [9] (''Penny classes'') than for order executions in standard option classes which are not in the Penny Pilot Program (''Non-Penny classes''), where Members are assessed higher transaction fees and receive higher rebates. Currently, transaction rebates and fees in Section (1)(a) of the Fee Schedule for Professional Members are assessed according to the following table:

Origin	Tier	Volume criteria	Per contract rebates/fees for penny classes				Per contract rebates/fees for non-penny classes	
			Maker ^ (contra origins ex priority customer)	Maker ^ (contra priority customer origin)	Taker (contra origins ex priority customer)	Taker (contra priority customer origin)	Maker ** ^	Taker **
Non-Priority Customer, Firm, BD, and Non-MIAX PEARL Market Makers.	1	0.00%–0.15%	($0.25)	($0.23)	$0.50	$0.50	($0.30)	$1.10
	2	Above 0.15%–0.40%	($0.40)	($0.38)	0.50	0.50	($0.30)	1.10
	3	Above 0.40%–0.65%	($0.40)	($0.38)	0.49	0.50	($0.60)	1.10
	4	Above 0.65%–1.00%	($0.47)	($0.45)	0.49	0.50	($0.65)	1.09
	5	Above 1.00%–1.40%	($0.48)	($0.46)	0.48	0.50	($0.70)	1.08
	6	Above 1.40%	($0.48)	($0.46)	0.48	0.50	($0.85)	1.07

** Members may qualify for the Maker Rebate and the Taker Fee associated with the highest Tier for transactions in Non-Penny classes if the Member executes more than 0.30% volume in Non-Penny classes, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL listed option classes. For purposes of qualifying for such rates, the Exchange will aggregate the volume transacted by Members and their Affiliates in the following Origin types in Non-Penny classes: MIAX PEARL Market Makers, and Non-Priority Customer, Firm, BD, and Non-MIAX PEARL Market Makers.

^ Members may qualify for Maker Rebates equal to the greater of: (A) ($0.40) for Penny Classes and ($0.65) for Non-Penny Classes, or (B) the amount set forth in the applicable Tier reached by the Member in the relevant Origin, if the Member and their Affiliates execute at least 1.50% volume in the relevant month, in Priority Customer Origin type, in all options classes, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL listed option classes.

[3] ''Member'' means an individual or organization that is registered with the Exchange pursuant to Chapter II of the Exchange Rules for purposes of trading on the Exchange as an ''Electronic Exchange Member'' or ''Market Maker.'' Members are deemed ''members'' under the Exchange Act. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[4] ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Exchange Rule 100, including Interpretations and Policies .01.

[5] ''Excluded Contracts'' means any contracts routed to an away market for execution. *See* the Definitions Section of the Fee Schedule.

[6] ''TCV'' means total consolidated volume calculated as the total national volume in those classes listed on MIAX PEARL for the month for which the fees apply, excluding consolidated volume executed during the period time in which the Exchange experiences an ''Exchange System Disruption'' (solely in the option classes of the affected Matching Engine (as defined below)). The term Exchange System Disruption, which is defined in the Definitions section of the Fee Schedule, means an outage of a Matching Engine or collective Matching Engines for a period of two consecutive hours or more, during trading hours. The term Matching Engine, which is also defined in the Definitions section of the Fee Schedule, is a part of the MIAX PEARL electronic system that processes options orders and trades on a symbol-by-symbol basis. Some Matching Engines will process option classes with multiple root symbols, and other Matching Engines may be dedicated to one single option root symbol (for example, options on SPY may be processed by one single Matching Engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated Matching Engine. A particular root symbol may not be assigned to multiple Matching Engines. The Exchange believes that it is reasonable and appropriate to select two consecutive hours as the amount of time necessary to constitute an Exchange System Disruption, as two hours equates to approximately 1.4% of available trading time per month. The Exchange notes that the term ''Exchange System Disruption'' and its meaning have no applicability outside of the Fee Schedule, as it is used solely for purposes of calculating volume for the threshold tiers in the Fee Schedule. *See* the Definitions Section of the Fee Schedule.

[7] ''Affiliate'' means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An ''Appointed Market Maker'' is a MIAX PEARL Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an ''Appointed EEM'' is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX PEARL Market Maker) that has been appointed by a MIAX PEARL Market Maker, pursuant to the process described in the Fee Schedule. *See* the Definitions Section of the Fee Schedule.

[8] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[9] *See* Securities Exchange Act Release No. 79778 (January 12, 2017), 82 FR 6662 (January 19, 2017) (SR–PEARL–2016–01).

The Exchange proposes to establish an alternative lower Taker fee that Members may qualify for in Penny classes for their Firm Origin orders when trading against Origins other than Priority Customer if certain thresholds are satisfied by the Member. Specifically, Members may qualify for Taker fees of $0.48 for Penny classes for their Firm Origin when trading against Origins other than Priority Customer if the Member and their Affiliates: (1) Execute at least 2.00% of TCV in the relevant month in the Priority Customer Origin type, in all options classes, not including Excluded Contracts, as compared to TCV in all MIAX PEARL listed option classes; and (2) reach at least Tier 3 in the relevant month in the Professional Members Origin types. The proposed alternative lower Taker fee is specific to the Firm Origin and volume aggregation would still be based on Professional Members for tier purposes. Other Origins within Professional Members would still get the tier rate assigned in the Professional Members table as set forth in Section (1)(a) of the Fee Schedule. The proposed change would not apply to Taker fees for Firm Origin orders in Penny classes that do not reach at least Tier 3 (Tier 1 and Tier 2) in the relevant month in the Professional Members Origin types. The proposed change would apply to Taker fees for Firm Origin orders in Penny classes that reach Tier 3 or Tier 4 in the relevant month in the Professional Members Origin types, in which Professional Members, including Firm, in those tiers are currently assessed a Taker fee of $0.49 when trading against Origins other than Priority Customer. The proposed change would have no effect to Taker fees for Firm Origin orders in Penny classes in Tiers 5 and 6 in the relevant month in the Professional Members Origin types as the Taker fee in those tiers is already set at $0.48 when trading against Origins other than Priority Customer.

The Exchange believes that by encouraging Members to execute at least 2.00% of TCV in the relevant month in the Priority Customer Origin type, in all options classes, not including Excluded Contracts, as compared to TCV in all MIAX PEARL listed option classes, and to reach at least Tier 3 in the relevant month in the Professional Members Origins types in order to qualify for a lower Taker fee of $0.48 per contract for Firm orders trading against Origins other than Priority Customer, instead of the fee otherwise applicable to such orders in Tier 3 and Tier 4 for Professional Members in Penny classes, may increase volume of Firm and Priority Customer order flow. The Exchange believes that the increased order flow will result in increased liquidity, which benefits all Exchange participants by providing more trading opportunities and tighter spreads.

The Exchange also proposes to amend footnote ''∧'' below the tables in the Add/Remove Tiered Rebates/Fees set forth in Section (1)(a) of the Fee Schedule to increase the Priority Customer threshold in which Members may qualify for alternative Maker rebates for options transactions in all classes for Professional Members, provided that the Member meets certain volume criteria. Currently, Members may qualify for Maker rebates equal to the greater of: (A) ($0.40) for Penny Classes and ($0.65) for Non-Penny Classes, or (B) the amount set forth in the applicable Tier reached by the Member in the relevant Origin, if the Member and their Affiliates execute at least 1.50% volume in the relevant month, in Priority Customer Origin type, in all options classes, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL listed option classes.

The Exchange proposes to increase the Priority Customer threshold percentage amount in footnote ''∧'' from at least 1.50% to at least 2.00% of volume in the relevant month, in Priority Customer Origin type, in all options classes, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL listed option classes, in order to qualify for the alternative Maker rebates. For example, if a Member met the monthly volume criteria and reached Tier 1 for Professional Members' options transactions but reached the proposed increased Priority Customer monthly threshold of over 2.00% of TCV, the Member would receive a rebate of ($0.40) per contract trading against any contra in Penny classes (instead of ($0.25) or ($0.23) per contract) and ($0.65) per contract in Non-Penny classes (instead of ($0.30) per contract). The member would receive the Taker rates associated with the Tier, $0.50 for Penny, trading against any contra, and $1.10 for Non-Penny. For purposes of qualifying for such rates, the Exchange will continue to aggregate the Priority Customer volume transacted by Members and their Affiliates. As the amount and type of volume that is executed on the Exchange has shifted since it first established the alternative Maker rebates for options transactions in all classes for Professional Members, provided that the Member meets certain volume criteria,[10] the Exchange has determined to level-set this threshold amount so that it is more reflective of the current operating conditions and the current type and amount of volume executed on the Exchange.

With all proposed changes, the transaction rebates and fees in Section (1)(a) of the Fee Schedule for Professional Members shall be the following:

Origin	Tier	Volume criteria	Per contract rebates/fees for penny classes				Per contract rebates/fees for non-penny classes	
			Maker∧ (contra origins ex priority customer)	Maker∧ (contra priority customer origin)	Taker✧ (contra origins ex priority customer)	Taker (contra priority customer origin)	Maker**∧	Taker**
Non-Priority Customer, Firm, BD, and Non-MIAX PEARL Market Makers.	1	0.00%–0.15%	($0.25)	($0.23)	$0.50	$0.50	($0.30)	$1.10
	2	Above 0.15%–0.40%	($0.40)	($0.38)	0.50	0.50	($0.30)	1.10
	3	Above 0.40%–0.65%	($0.40)	($0.38)	0.49	0.50	($0.60)	1.10
	4	Above 0.65%–1.00%	($0.47)	($0.45)	0.49	0.50	($0.65)	1.09
	5	Above 1.00%–1.40%	($0.48)	($0.46)	0.48	0.50	($0.70)	1.08
	6	Above 1.40%	($0.48)	($0.46)	0.48	0.50	($0.85)	1.07

** Members may qualify for the Maker Rebate and the Taker Fee associated with the highest Tier for transactions in Non-Penny classes if the Member executes more than 0.30% volume in Non-Penny classes, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL listed option classes. For purposes of qualifying for such rates, the Exchange will aggregate the volume transacted by Members and their Affiliates in the following Origin types in Non-Penny classes: MIAX PEARL Market Makers, and Non-Priority Customer, Firm, BD, and Non-MIAX PEARL Market Makers.

[10] *See* Securities Exchange Act Release No. 83419 (June 12, 2018), 83 FR 28285 (June 18, 2018) (SR–PEARL–2018–13).

^ Members may qualify for Maker Rebates equal to the greater of: (A) ($0.40) for Penny Classes and ($0.65) for Non-Penny Classes, or (B) the amount set forth in the applicable Tier reached by the Member in the relevant Origin, if the Member and their Affiliates execute at least 2.00% volume in the relevant month, in Priority Customer Origin type, in all options classes, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL listed option classes.

✧ Members may qualify for Taker Fees of $0.48 for Penny classes for their Firm Origin when trading against Origins not Priority Customer if the Member and their Affiliates: (1) Execute at least 2.00% of TCV in the relevant month in the Priority Customer Origin type, in all options classes, not including Excluded Contracts, as compared to TCV in all MIAX PEARL listed option classes, and (2) reach at least Tier 3 in the relevant month in the specified Origin types (Non-Priority Customer, Firm, BD, and Non-MIAX PEARL Market Makers).

The proposed rule change is to become operative April 1, 2019.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [11] in general, and furthers the objectives of Section 6(b)(4) of the Act,[12] in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using its facilities, and 6(b)(5) of the Act,[13] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange's proposal to establish an alternative Taker fee for Firm Origin when trading against Origins other than Priority Customer that will apply instead of the Taker fee otherwise applicable to such orders, if a certain threshold in the Priority Customer Origin and a certain tier level by Professional Members are satisfied by the member, is consistent with Section 6(b)(4) of the Act [14] because it applies equally to all Members for their Firm Origin with similar order flow. The Exchange believes that the proposed alternative threshold by which any Member may qualify for the lower Taker fee of $0.48 for Penny classes for their Firm Origin when trading against Origins other than Priority Customer instead of the Taker fee otherwise applicable to such orders is fair, equitable, and not unreasonably discriminatory because it will encourage Members to submit both Firm and Priority Customer orders, which will increase liquidity, which benefit all market participants by providing more trading opportunities and tighter spreads. The alternative Taker fee is reasonable because it will incentivize providers of Priority Customer order flow to send that Priority Customer order flow to the Exchange in order to obtain the highest volume threshold and receive a Taker fee in a manner that enables the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants.

The proposal to increase the Priority Customer threshold for alternative Maker rebates for options transactions in all classes for Professional Members, provided that the Member meets certain volume criteria (the Member and their Affiliates execute at least 2.00% (instead of 1.50%) of volume in the relevant month, in Priority Customer Origin type, in all options classes, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL listed option classes), is reasonable, equitable and not unfairly discriminatory because all similarly situated market participants are subject to the same tiered rebates and fees and access to the Exchange is offered on terms that are not unfairly discriminatory. The Exchange believes that providing alternative Maker rebates for options transactions in all classes for Professional Members (if the Member meets certain volume criteria relating to Priority Customer volume), and adjusting the threshold requirements so that they are reflective of current operating conditions and the current type and amount of volume executed on the Exchange, will encourage Members to execute additional Priority Customer and Professional Member volume on the Exchange. The Exchange believes that additional Priority Customer and Professional Member volume executed on the Exchange will attract further liquidity to the Exchange, which in turn will benefit all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

MIAX PEARL does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes to establish a lower Taker fee assessed to Firm Origin when trading contra to Origins other than Priority Customer and the change to the volume criteria for Members to qualify for alternative Maker rebates should continue to encourage the provision of liquidity that enhances the quality of the Exchange's markets and increases the number of trading opportunities on MIAX PEARL for all participants who will be able to compete for such opportunities. The proposed rule change should enable the Exchange to continue to attract and compete for order flow with other exchanges. However, this competition does not create an undue burden on competition but rather offers all market participants the opportunity to receive the benefit of competitive pricing.

The Exchange further believes that its proposal to establish a lower Taker fee that Members may qualify for in Penny classes for their Firm Origin when trading against Origins other than Priority Customer, provided that the Member meets certain volume criteria, that will apply instead of the Taker fee otherwise applicable to such orders, will not have an impact on intra-market competition. Specifically, the Exchange believes that the proposal to establish additional thresholds by which any Member may qualify for a Taker fee of $0.48 per contract for their Firm Orders when trading against Origins other than Priority Customer, when Members and their Affiliates execute at least 2.00% of TCV in the relevant month in the Priority Customer Origin type, in all options classes, not including Excluded Contracts, as compared to TCV in all MIAX PEARL listed option classes, and to reach at least Tier 3 in the relevant month in the specified Origin types, instead of the fee otherwise applicable to such orders in Tier 3 or Tier 4, will increase volume of Firm and Priority Customer order flow. The Exchange believes that the increased order flow will result in increased liquidity which benefits all Exchange participants by providing more trading opportunities and tighter spreads. Because the proposal offers additional thresholds by which a Member can receive a lower Taker fee for their Firm Origin instead of the Taker fee otherwise applicable to such orders in Tier 3 or Tier 4, the Exchange believes that the proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange further believes that its proposal to increase the Priority Customer Threshold in which Members may qualify for alternative Maker rebates for options transactions in all

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

[13] 15 U.S.C. 78f(b)(1) and (b)(5).

[14] 15 U.S.C. 78f(b)(4).

classes for Professional Members, provided that the Member meets certain volume criteria, will not have an impact on intra-market competition. Specifically, the Exchange believes the proposal to increase the Priority Customer threshold that Members may qualify for Maker rebates equal to the greater of: (A) ($0.40) for Penny Classes and ($0.65) for Non-Penny Classes, or (B) the amount set forth in the applicable Tier reached by the Member in the relevant Origin, if the Member and their Affiliates execute at least 2.00% volume in the relevant month, in Priority Customer Origin type, in all options classes, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL listed option classes, will not impose any burden on competition because the proposed increase is a level-setting change to keep up with the changes in the Exchange's market share and Members volume on the Exchange.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its rebates and fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposed rule changes reflect this competitive environment because they modify the Exchange's fees and rebates in a manner that encourages market participants to continue to provide liquidity and to send order flow to the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[15] and Rule 19b–4(f)(2) [16] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission 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–PEARL–2019–13 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–PEARL–2019–13. 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–PEARL–2019–13, and should be submitted on or before May 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07628 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

[15] 15 U.S.C. 78s(b)(3)(A)(ii).

[16] 17 CFR 240.19b–4(f)(2).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85613; File No. SR–BX–2019–009]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Current Pilot Program Related to Clearly Erroneous Transactions

April 11, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 9, 2019, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the current pilot program related to BX Rule 11890, Clearly Erroneous Transactions, to the close of business on October 18, 2019.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 the proposed rule change is to extend the current pilot program related to Rule 11890, Clearly Erroneous Transactions, to the close of business on October 18, 2019. This change is being proposed in connection with proposed amendments to the Plan to Address Extraordinary Market Volatility (the ''Limit Up-Limit Down Plan'' or the ''Plan'') that would allow the Plan to continue to operate on a permanent basis.[3]

On September 10, 2010, the Commission approved, on a pilot basis, changes to Rule 11890 that, among other things: (i) Provided for uniform treatment of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (ii) reduced the ability of the Exchange to deviate from the objective standards set forth in the rule.[4] In 2013, the Exchange adopted a provision designed to address the operation of the Plan.[5] Finally, in 2014, the Exchange adopted two additional provisions providing that: (i) A series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information resulting in a severe valuation error for all such transactions; and (ii) in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of an Exchange, another SRO, or responsible single plan processor in connection with the transmittal or receipt of a trading halt, an Officer, acting on his or her own motion, shall nullify any transaction that occurs after a trading halt has been declared by the primary listing market for a security and before such trading halt has officially ended according to the primary listing market.[6] These changes are currently scheduled to operate for a pilot period that coincides with the pilot period for the Limit Up-Limit Down Plan,[7] including any extensions to the pilot period for the Plan.[8]

The Commission recently published the proposed Eighteenth Amendment to the Plan to allow the Plan to operate on a permanent, rather than pilot, basis. The Exchange proposes to amend Rule 11890 to untie the pilot program's effectiveness from that of the Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019—*i.e.,* six months after the expiration of the current pilot period for the Plan. If the pilot period is not either extended, replaced or approved as permanent, the prior versions of paragraphs (a)(2)(C), (c)(1), (b)(i), and (b)(ii) shall be in effect, and the provisions of paragraphs (g) through (i) shall be null and void.[9] In such an event, the remaining sections of Rule 11890 would continue to apply to all transactions executed on the Exchange. The Exchange understands that the other national securities exchanges and Financial Industry Regulatory Authority (''FINRA'') will also file similar proposals to extend their respective clearly erroneous execution pilot programs, the substance of which are identical to Rule 11890.

The Exchange does not propose any additional changes to Rule 11890. The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a limited six month pilot basis after Commission approves the Plan to operate on a permanent basis. Assuming the Plan is approved by the Commission to operate on a permanent, rather than pilot, basis the Exchange intends to assess whether additional changes should also be made to the operation of the clearly erroneous execution rules. Extending the effectiveness of Rule 11890 for an additional six months should provide the Exchange and other national securities exchanges additional time to consider further amendments to the clearly erroneous execution rules in light of the proposed Eighteenth Amendment to the Plan.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[10] in general, and Section 6(b)(5) of the Act,[11] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning review of transactions as clearly erroneous. The Exchange believes that extending the clearly erroneous execution pilot under Rule 11890 for an additional six months would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule change would also help assure consistent results in handling erroneous trades across the U.S. equities markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the amended Clearly Erroneous Transactions rule should continue to be in effect on a pilot basis while the Exchange and the other national securities exchanges consider and develop a permanent proposal for clearly erroneous execution reviews.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of harmonized clearly erroneous execution rules across the U.S. equities markets while the Exchange and other national securities exchanges consider further amendments to these rules in light of the proposed Eighteenth Amendment to the Plan. The

[3] *See* Securities Exchange Act Release No. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (File No. 4–631) (''Eighteenth Amendment'').

[4] *See* Securities Exchange Act Release No. 62886 (September 10, 2010), 75 FR 56613 (September 16, 2010) (SR–BX–2010–040).

[5] *See* Securities Exchange Act Release No. 68818 (February 1, 2013), 78 FR 9100 (February 7, 2013) (SR–BX–2013–010).

[6] *See* Securities Exchange Act Release No. 72434 (June 19, 2014), 79 FR 36110 (June 25, 2014) (SR–BX–2014–021).

[7] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the ''Limit Up-Limit Down Release'').

[8] *See* Securities Exchange Act Release No. 71784 (March 24, 2014), 79 FR 17610 (March 28, 2014) (SR–BX–2014–014).

[9] *See* supra notes 4–6. The prior versions of paragraphs (a)(2)(C), (c)(1), (b)(i), and (b)(ii) generally provided greater discretion to the Exchange with respect to breaking erroneous trades.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

Exchange understands that the other national securities exchanges and FINRA will also file similar proposals to extend their respective clearly erroneous execution pilot programs. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

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 Act [12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [15] 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 so that the proposed rule change may become effective and operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the current clearly erroneous execution pilot program to continue uninterrupted, without any changes, while the Exchange and the other national securities exchanges consider and develop a permanent proposal for clearly erroneous execution reviews. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[16]

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–BX–2019–009 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2019–009. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of 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–BX–2019–009 and should be submitted on or before May 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07624 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 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] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85637; File No. SR–NYSE–2018–34]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, to Amend NYSE Rule 104

April 12, 2019.

I. Introduction

On July 31, 2018, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NYSE Rule 104 governing transactions by Designated Market Makers (''DMMs''). The proposed rule change was published for comment in the **Federal Register** on August 16, 2018.[3]

On September 24, 2018, pursuant to Section 19(b)(2) of the Act,[4] the Commission extended to November 14, 2018, the time period in which to approve, disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83821 (Aug. 10, 2018), 83 FR 40808 (Aug. 16, 2018) (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

rule change.[5] On November 1, 2018, the Commission issued an order instituting proceedings, pursuant to Section 19(b)(2)(B) of the Act,[6] to determine whether to approve or disapprove the proposed rule change.[7] On February 11, 2019, the Commission extended to April 13, 2019, the period for Commission action on proceedings to determine whether to approve or disapprove the proposed rule change.[8] The Commission has received one comment letter on the proposal.[9]

On April 9, 2019, the Exchange filed Amendment No. 1 to the proposal, which supersedes the original filing in its entirety. The Commission is publishing this notice to solicit comments on Amendment No. 1 from interested persons, and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Self-Regulatory Organization's Description of the Proposal, as Modified by Amendment No. 1

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 those statements may be examined at the places specified in Item V 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 consolidate and restructure subsections (g), (h) and (i) of Rule 104 governing DMM transactions and make a related change to Rule 98(c)(5) (Operation of a DMM Unit). This Amendment No. 1 supersedes the original filing its entirety.[10]

Background

Rule 104 sets forth the obligations of Exchange DMMs. Under Rule 104(a), DMMs registered in one or more securities traded on the Exchange are required to engage in a course of dealings for their own account to assist in the maintenance of a fair and orderly market insofar as reasonably practicable. Rule 104(a) also enumerates the specific responsibilities and duties of a DMM, including: (1) Maintenance of a continuous two-sided quote, which mandates that each DMM maintain a bid or an offer at the National Best Bid (''NBB'') and National Best Offer (''NBO,'' together the ''NBBO'') for a certain percentage of the trading day,[11] and (2) the facilitation of, among other things, openings, re-openings, and the close of trading for the DMM's assigned securities, all of which may include supplying liquidity as needed.[12] Rule 104(f) imposes an affirmative obligation on DMMs to maintain, insofar as reasonably practicable, a fair and orderly market on the Exchange in assigned securities, including maintaining price continuity with reasonable depth and trading for the DMM's own account when lack of price continuity, lack of depth, or disparity between supply and demand exists or is reasonably to be anticipated.

Rule 104(g) provides that transactions on the Exchange by a DMM for the DMM's account must be effected in a reasonable and orderly manner in relation to the condition of the general market and the market in the particular stock. More particularly, Rule 104(g) describes certain transactions that are permitted to render the DMM's position adequate to the market's needs, including Neutral and Non-Conditional Transactions, and certain DMM transactions that are prohibited.

Rule 104(g)(i)(A)(I) defines Neutral Transactions as a purchase or sale by which a DMM liquidates or decreases a position. Neutral Transactions may be made without restriction as to price. However, the DMM's obligation to maintain a fair and orderly market may require re-entry on the opposite side of the market trend after effecting one or more Neutral Transactions. Such re-entry transactions should be in accordance with the immediate and anticipated needs of the market.

Rule 104(g)(i)(A)(II) defines Non-Conditional Transactions as a DMM's bid or purchase and offer or sale that establishes or increases a position, other than a transaction that reaches across the market to trade with the Exchange BBO. Non-Conditional Transactions may be made without restriction as to price in order to (i) match another market's better bid or offer price; (ii) bring the price of a security into parity with an underlying or related security or asset; (iii) add size to an independently established bid or offer on the Exchange; (iv) purchase at the published bid price on the Exchange; (v) sell at the published offer price on the Exchange; (vi) purchase or sell at a price between the Exchange BBO; and (vii) purchase below the published bid or sell above the published offer on the Exchange. As with Neutral Transactions, the DMM's obligation to maintain a fair and orderly market may also require re-entry on the opposite side of the market trend after effecting one or more Non-Conditional Transactions. Such re-entry transactions should be commensurate with the size of the Non-Conditional Transactions and the immediate and anticipated needs of the market.

Rule 104(g)(i)(A)(III) provides that, except as otherwise permitted by Rule 104, during the last ten minutes prior to the close of trading, a DMM with a long or short position in a security is prohibited from making a purchase or sale in such security that results in a new high or low price, respectively, on the Exchange for the day at the time of the DMM's transaction (''Prohibited Transactions'').[13]

Finally, Rule 104(h) addresses DMM transactions in securities that establish or increase the DMM's position. Rule 104(h)(i) defines a Conditional Transaction as a DMM transaction in a security that establishes or increases a position and reaches across the market

[5] *See* Securities Exchange Act Release No. 84276 (Sep. 24, 2018), 83 FR 49143 (Sep. 28, 2018).

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 84515 (Nov. 1, 2018), 83 FR 55763 (Nov. 7, 2018) (''Order Instituting Proceedings'').

[8] *See* Securities Exchange Act Release No. 85096 (Feb. 11, 2019), 84 FR 4553 (Feb. 15, 2019).

[9] *See* Letter from Stephen John Berger, Managing Director, Government and Regulatory Policy, Citadel Securities, to Assistant Secretary, Commission (Nov. 28, 2018) (''Citadel Letter'').

[10] In this Amendment No. 1, the Exchange proposes to amend the original filing by modifying proposed Rule 104(g)(1)(B) relating to Aggressing Transactions prior to the close. In the original filing, the Exchange proposed that Aggressing Transactions in the last ten seconds of trading would be prohibited if they would result in a new consolidated high or low price of the day unless such transaction would bring the price of that security into parity with an underlying or related security or asset. As amended, the Exchange proposes that Aggressing Transactions in the last ten minutes of trading would be prohibited if they would result in a new Exchange high or low price of the day, with three exceptions for matching another market's better bid or offer, bringing the price of that security into parity with an underlying or related security or asset, or liquidating or decreasing the DMM unit's position. This Amendment No. 1 also proposes to amend Rule 98(c)(5).

[11] *See* Rule 104(a)(1).

[12] *See* Rule 104(a)(2)–(3). Rule 104(e) further provides that DMM units must provide contra-side liquidity as needed for the execution of odd-lot quantities eligible to be executed as part of the opening, reopening, and closing transactions but that remain unpaired after the DMM has paired all other eligible round lot sized interest.

[13] Rule 104(g)(i)(A)(III) contains two exceptions to Prohibited Transactions: (1) Matching another market's better bid or offer price, and (2) bringing the price of a security into parity with an underlying or related security or asset.

to trade as the contra-side to the Exchange published bid or offer.[14]

Rule 104(h)(ii) permits ''Conditional Transactions'' without restriction as to price if they are followed by appropriate re-entry on the opposite side of the market commensurate with the size of the DMM's transaction. Thus, if a DMM establishes or increases a long position by buying from the Exchange best offer, or establishes or increases a short position by selling to the Exchange best bid, such transaction would be followed by the DMM quoting on the opposite side of the last transaction in order to dampen the impact of that transaction on the market.

The re-entry obligations for Conditional Transactions are set forth in Rule 104(h)(iii). Under Rule 104(h)(iii)(A), DMMs must re-enter within certain Exchange issued guidelines, called price participation points (''PPP''), that identify the price at or before which a DMM is expected to re-enter the market after effecting a Conditional Transaction. PPPs are only minimum guidelines and compliance with them does not guarantee that a DMM is meeting its obligations.

Notwithstanding that a security may not have reached the PPP, the DMM may be required to re-enter the market immediately after a Conditional Transaction based on the price and/or volume of the DMM's trading in reference to the market in the security at the time of such trading. In such situations DMMs may or may not rely on the fact and circumstance that there may have been one or more independent trades following the DMM's trading to justify a failure to re-enter the market. As set forth in Rule 104(h)(iii)(C)(I) and (II), immediate re-entry is required after the following Conditional Transactions:

- a purchase that (1) reaches across the market to trade with an Exchange published offer that is above the last differently priced trade on the Exchange and above the last differently priced published offer on the Exchange, (2) is 10,000 shares or more or has a market value of $200,000 or more, and (3) exceeds 50% of the published offer size; and
- a sale that (1) reaches across the market to trade with an Exchange published bid that is below the last differently priced trade on the Exchange and below the last differently priced published bid on the Exchange, (2) is 10,000 shares or more or has a market value of $200,000 or more, and (3) exceeds 50% of the published bid size.[15]

Rule 104(h)(iv) permits certain other Conditional Transactions without restriction as to price. Specifically, under subsection (h)(iv)(A), a DMM's purchase from the Exchange published offer that is priced above the last differently-priced trade on the Exchange or above the last differently-priced published offer on the Exchange. Similarly, under subsection (h)(iv)(B), a DMM's sale to the Exchange published bid that is priced below the last differently-priced trade on the Exchange or below the last differently-priced published bid on the Exchange.

Rule 104(i) provides that re-entry obligations following such Conditional Transactions would be the same as the re-entry obligations for Non-Conditional Transactions pursuant to Rule 104(g).

Finally, paragraph (c)(5) of Rule 98 provides that the member organization operating a DMM unit must provide the Exchange with real-time net position information in DMM securities by the DMM unit and any independent trading unit of which it is part at such times and in the manner prescribed by the Exchange.

Proposed Rule Change

The Exchange proposes to consolidate and restructure current Rules 104(g), (h) and (i), which would be deleted and incorporated as modified into a new subsection (g) titled ''Transactions by DMMs.''

As discussed below, proposed Rule 104(g) would revise the requirements for DMM transactions based on the type of trading by the DMM, rather than by reference to the DMM's position. Rule 98(c)(5) would be amended to require DMMs to provide net position information to the Exchange daily. The Exchange also proposes certain technical and conforming changes.[16]

As restructured, proposed Rule 104 would replace the four current types of DMM transactions based on the DMM's position (Neutral, Non-conditional, Conditional and Prohibited) with a single, enhanced DMM transaction called an ''Aggressing Transaction'' that would retain existing re-entry requirements. During the ten minutes before the scheduled close of trading, Aggressing Transactions that would result in a new high (low) price for a security on the Exchange for the day at the time of the DMM's transaction would be prohibited with three exceptions discussed below.

Proposed Rule 104(g)(1)

Proposed Rule 104(g)(1) would be based on current Rule104(g)(i). Like current Rule 104(g)(i), proposed Rule 104(g)(1) would specify that transactions on the Exchange by a DMM unit for the DMM unit's account are to be effected in a reasonable and orderly manner in relation to the condition of the general market and the market in the particular stock. Proposed Rule 104(g)(1) would eliminate the definitions of Neutral and Non-Conditional Transactions[17] and retain Conditional Transactions, which would be enhanced and renamed ''Aggressing Transactions.''

Aggressing Transactions

In proposed Rule 104(g)(1)(A), the Exchange would define an Aggressing Transaction as a DMM unit transaction that:

(i) is a purchase (sale) that reaches across the market to trade as the contra-side to the Exchange published offer (bid); and

(ii) is priced above (below) the last differently-priced trade on the Exchange and above (below) the last differently-priced published offer (bid) on the Exchange.

The proposed definition of Aggressing Transaction would be the same as the current definition of Conditional Transaction in Rule 104(h)(i) and (ii), except that Aggressing Transaction would not be defined by reference to whether the transaction increases or decreases the DMM's position. Accordingly, a DMM unit Aggressing Transaction would be any trade where the DMM both reaches across the market and aggressively moves the price of the security.

Prohibited Transactions

The Exchange proposes to retain certain of the existing prohibitions on specified DMM transactions during the final ten minutes of the trading day and the current exceptions to Prohibited Transactions, which are described in current Rule 104(g)(i)(A)(III). With this proposed rule change, the Exchange proposes a substantive difference for determining whether a DMM transaction should be prohibited in the last ten minutes of trading. Rather than

[14] A DMM reaches across the market when the DMM buys from the NYSE offer or sells to the NYSE bid.

[15] For purposes of subsections (h)(iii)(C)(I) and (h)(iii)(C)(II), a Sweep is viewed as a transaction with the published bid or offer.

[16] The Exchange proposes the following technical and conforming changes: (1) romanettes (i) through (vi) in Rule 104(b) and (i) through (iv) in Rule 104(f) would be replaced with numbers 1 through 6 and 1 through 4, respectively; (2) current subsection (j) would become new subsection (h); and (3) current subsection (k) would become new subsection (i).

[17] As discussed below, the re-entry obligations for Neutral and Non-Conditional Transactions would be retained and incorporated into proposed subsection (g)(2).

the current rule, which looks at the DMM's position (long or short) and then determines whether the trade should be prohibited based on whether it results in a new Exchange high or low, as proposed, a DMM transaction in the last ten minutes of trading would be prohibited if it is an Aggressing Transaction, *i.e.,* reaches across the market, and, as a result, creates a new Exchange high or low. The Exchange also proposes exceptions to this prohibition, which are based on exceptions to prohibited transactions in the current rule.

To effect this change, proposed Rule 104(g)(1)(B) would define ''Prohibited Transactions'' as Aggressing Transactions during the last ten minutes prior to the scheduled close of trading that would result in a new high (low) price for a security on the Exchange for the day at the time of the DMM's transaction. The proposed three exceptions to this prohibition would be if the trade:

- matches another market's better bid or offer price;
- brings the price of that security into parity with an underlying or related security or asset; or
- liquidates or decreases the position of the DMM unit.

The first two exceptions are in current Rule 104(g)(i)(A)(III) and the Exchange proposes to retain these exceptions in the proposed rule.[18] The third exception is based in part on the position-based review of whether a transaction would be prohibited under current rules. Current Rule 104(g)(i)(A)(III)(1) prohibits a DMM with a long position in a security from making a purchase in that security during the last ten minutes that results in a new high price; the rule does not prohibit a DMM with a long position from selling or decreasing their position in the security. Likewise, current Rule 104(g)(i)(A)(III)(2) prohibits a DMM with a short position in a security from making a sale in that security during the last ten minutes prior to the close of trading that results in a new low price, but the rule does not prohibit a DMM with a short position from purchasing or liquidating their position in that security. Because looking at the DMM's position would be an exception rather than the basis for the prohibition, the Exchange proposes to restate the rule as an exception that permits a DMM to liquidate or decrease a position of the DMM unit, rather than focus on what is prohibited when the DMM is long or short. This proposed rule text is also based on Rule 104(g)(i)(A)(I), which has no restrictions as to price for ''Neutral Transactions,'' *i.e.,* transactions when the DMM liquidates or decreases a position.

With this proposed difference for Prohibited Transactions, in the last ten minutes of trading, DMMs would be able to trade at prices lower than the published offer, or higher than the published bid, even if such trade would result in a new Exchange high or low for the day. The Exchange believes that this proposed change would support DMMs in meeting their affirmative obligations while at the same time continuing to prevent DMMs from aggressively taking liquidity and moving prices on the Exchange by trading with the published bid or offer in the final ten minutes before the closing auction [19] For example, if the Exchange best bid and offer were $10.01 × $10.05, the DMM has a long position, and the DMM posts a bid at $10.04 to try and tighten that spread, under the current rules, if that $10.04 bid were to trade with non-displayed sell liquidity at that price and that trade resulted in a new high price on the Exchange for the day, that trade would be prohibited. Under the proposed change to Prohibited Transactions, this trade would no longer be prohibited because the DMM is not reaching across the market.

Finally, the Exchange notes that the proposal is consistent with, and in no way diminishes or relieves the DMM of, the other obligations regarding the quality of the markets in securities to which DMMs are assigned under Rule 104.[20]

Proposed Rule 104(g)(2)

Proposed subsection (g)(2) would set forth the re-entry obligations for DMM transactions, which would be based on the current rule's re-entry obligations. Specifically, proposed Rule 104(g)(2) would provide that a DMM unit's obligation to maintain a fair and orderly market may require re-entry on the opposite side of the market after effecting one or more transactions. The proposed rule would provide that such re-entry should be commensurate with the size of the transaction(s) and the immediate and anticipated needs of the market, which are the same re-entry requirements specified in current Rules 104(g)(i)(A)(I)(3) and 104(g)(i)(A)(II)(3) for Neutral and Non-Conditional Transactions, respectively, as well as the types of Conditional Transactions referenced in current Rules 104(h)(iv) and 104(i).[21] Accordingly, these re-entry obligations would be applicable to DMM transactions other than Aggressing Transactions.

Proposed Rule 104(g)(2)(A) and (B) would specify the re-entry obligations for Aggressing Transactions. Following an Aggressing Transaction, proposed Rule 104(g)(2)(A) would require the DMM unit to re-enter the opposite side of the market at or before the applicable PPP for that security commensurate with the size of the Aggressing Transaction. The re-entry requirement for Aggressing Transactions set forth in proposed Rule 104(g)(2)(A) is based on the current re-entry requirements for certain Conditional Transactions set forth in current Rule 104(h)(iii).

Under proposed Rule 104(g)(2)(B), if the Aggressing Transaction (i) is 10,000 shares or more or has a market value of $200,000 or more, and (ii) exceeds 50% of the published offer (bid) size, immediate re-entry on the opposite side of the market at or before the applicable PPP for the security commensurate with the size of the Aggressing Transaction would be required. The re-entry requirement for block-sized Aggressing Transactions set forth in proposed Rule 104(g)(2)(B) is based the current re-entry requirements for block-sized Conditional Transactions under Rule 104(h)(iii)(C). The Exchange proposes a clarifying amendment in proposed Rule 104(g)(2)(B), as compared to current Rule 104(h)(iii)(C), to provide that such

[18] *See* Rule 104(g)(i)(A)(III) (referencing Rules 104(g)(i)(A)(II)(2)(i) through (g)(i)(A)(II)(2)(ii)).

[19] *See* Rule 104(g)(i)(A)(III).

[20] In general, as noted above, transactions on the Exchange by a DMM for the DMM's account must be effected in a reasonable and orderly manner in relation to the condition of the general market and the market in the particular stock, and DMMs must refrain from causing or exacerbating excessive price movements. DMMs have affirmative obligations under Rule 104(a) to engage in a course of dealings for their own account to assist in the maintenance of a fair and orderly market insofar as reasonably practicable. Specifically, Rule 104(f)(ii) sets forth the DMM's obligation to act as reasonably necessary to ensure appropriate depth and maintain reasonable price variations between transactions (also known as price continuity) and prevent unexpected variations in trading. Further, under Rule 123D(a), openings and reopenings must be fair and orderly, reflecting the DMM's professional assessment of market conditions at the time, and appropriate consideration of the balance of supply and demand as reflected by orders represented in the market. The Exchange supplies DMMs with suggested Depth Guidelines for each security in which a DMM is registered, and DMMs are expected to quote and trade with reference to the Depth Guidelines. *See* Rule 104(f)(iii).

[21] Current Rule 104(h)(iv) provides that two types of Conditional Transactions may be made without restriction as to price: (1) A DMM's purchase from the Exchange published offer that is priced above the last differently-priced trade on the Exchange or above the last differently-priced published offer on the Exchange ((h)(iv)(A)); and (2) a DMM's sale to the Exchange published bid that is priced below the last differently-priced trade on the Exchange or below the last differently-priced published bid on the Exchange ((h)(iv)(B)). Current Rule 104(i) provides that the re-entry obligations following transactions defined in Rule 104(h)(iv)(A) and (h)(iv)(B) are the same as for Non-Conditional Transactions pursuant to Rule 104(g) (i)(A)(3).

re-entry must be at or before the applicable PPP for that security. The Exchange believes that this proposed change will provide greater detail in the rule regarding the price at which the re-entry would be required.

Proposed Rule 104(g)(3)

Finally, proposed Rule 104(g)(3)(A) would provide that the Exchange would periodically issue PPP Guidelines that identify the price at or before which a DMM unit is expected to re-enter the market following an Aggressing Transaction. PPPs are only minimum guidelines and compliance with them does not guarantee that a DMM unit is meeting its obligations. This portion of the proposed Rule is based on Rule 104(h)(iii)(A) without any differences.

Proposed Rule 104(g)(3)(B) would provide that, notwithstanding that a security may not have reached the PPP, the DMM unit may be required to re-enter the market immediately after an Aggressing Transaction based on the price and/or volume of the DMM unit's trading in reference to the market in the security at the time of such trading. In such situations, DMM units may or may not rely on the fact and circumstance that there may have been one or more independent trades following the DMM unit's trading to justify a failure to re-enter the market. Subsection (B) of the proposed rule is based on current Rule 104(h)(iii)(B).

Proposed Amendment to Rule 98(c)(5)

As noted above, except for an exception to Prohibited Transactions, the Exchange proposes to eliminate reliance on the DMM's position to determine DMM trading requirements under proposed Rule 104(g). The Exchange proposes a related change to Rule 98(c)(5) to require DMMs to provide the Exchange with net position information daily. The Exchange proposes a further clarifying change to require DMM to provide net position information ''for'' such time ''periods,'' rather than ''at'' such times, prescribed by the Exchange. The Exchange does not believe that DMM net position information would need to be provided in real time in order for the Exchange to effectively monitor for compliance with the proposed exception to Rule 104(g)(1)(B).[22] Rather, the Exchange believes it would be able to effectively monitor for compliance with the proposed exception utilizing DMM position information provided on a same-day basis for its automated surveillances. The Exchange would publish regulatory guidance setting forth the requirement that DMMs provide net position on a daily basis but in no event later than trading day plus one (T+1). To implement this change, the Exchange proposes to delete the term ''real time'' in Rule 98(c)(5) and add the word ''daily'' after ''must'' and before ''provide.'' The Exchange would also replace ''for'' for ''at'' before ''such times,'' delete the ''s'' in times, and add ''periods'' immediately following in order to clarify that the Exchange may request DMM net position information for specific time periods on a daily basis.

Rule Implementation

Subject to approval of this proposed rule change, the Exchange proposes to implement these changes concurrent with the transition of Exchange-listed securities to the Pillar trading system, which is currently anticipated to begin in the third quarter of 2019.[23]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[24] in general, and furthers the objectives of Section 6(b)(5) of the Act,[25] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

In particular, the Exchange believes that revising the requirements for DMM transactions based on the type of DMM trading rather than the DMM's position and introducing a new, enhanced DMM transaction called an ''Aggressing Transaction'' would remove impediments to and perfect the mechanism of a free and open market and a national market system by simplifying and streamlining the requirements for DMM transactions. The proposal would eliminate four separate types of DMM transactions and introduce a simplified framework whereby all DMM transactions would be subject to general re-entry requirements based on the current re-entry obligations for Neutral, Non-Conditional and Conditional transactions, and specific re-entry requirements for Aggressing Transactions, except for Aggressing Transactions during the final ten minutes of trading that result in a new high (low) price for a security on the Exchange for the day at the time of the DMM's transaction, which would continue to be prohibited unless subject to a specified exception.

The Exchange believes that the proposal would not be inconsistent with the public interest and the protection of investors. As noted, the proposed rule would carry over the requirement that all DMM transactions be effected in a reasonable and orderly manner in relation to the condition of the general market and the market in the particular stock. Further, DMM Aggressing Transactions would continue to require re-entry on the opposite side of the market at or before the applicable PPP for the security as warranted. Aggressing Transactions in the final ten minutes of trading that result in a new high (low) price for a security on the Exchange for the day at the time of the DMM's transaction would continue to be prohibited. These safeguards would reasonably ensure that DMM transactions continue to bear a reasonable relationship to overall market conditions and that DMMs cannot destabilize, inappropriately influence or manipulate a security going into the close. In addition, the prohibition on Aggressing Transactions that would create a new high or low price on the Exchange would maintain the current bright-line rule that prohibits DMM transactions that aggressively take liquidity during the final ten minutes prior to the close.

The Exchange believes that the proposed substantive difference to Prohibited Transactions in the last ten minutes of trading to permit DMM trades between the Exchange BBO, even if such trades resulted in a new Exchange high or low and regardless of the DMM's position at the time, would promote fair and orderly markets and not be inconsistent with the public interest and the protection of investors because this proposed change would promote the display of liquidity by enabling DMMs to post bids and offers that would tighten the Exchange published bid and offer. The Exchange further believes that retaining the current exceptions for Prohibited Transactions, and permitting Aggressing Transactions that would liquidate or

[22] The Exchange currently provides DMMs with a technology interface that supports the submission of DMM real-time position information. In extremely limited circumstances, the Exchange relies on that position information to assist the DMMs in marking certain manual orders as sell short or sell long. When the Exchange transitions NYSE-listed securities to its Pillar trading system, it will no longer support this technology interface; nor will it be marking orders on behalf of the DMM.

[23] The Exchange has announced that, subject to rule approvals, the Exchange will begin transitioning Exchange-listed securities to Pillar on July 15, 2019, available at *https://www.nyse.com/publicdocs/nyse/markets/nyse/Pillar_Update_NYSE_Tape_A_NGW_February_2019.pdf.* The Exchange will publish by separate Trader Update a complete symbol migration schedule.

[24] 15 U.S.C. 78f(b).

[25] 15 U.S.C. 78f(b)(5).

decrease the DMM unit's position during the ten minutes prior to the scheduled close of trading even if they would result in a new Exchange high or low price, would remove impediments to and perfect the mechanism of a free and open market and a national market system because DMMs would be able to quote appropriately in their assigned securities during the period of the prohibition. The Exchange further believes that not restricting Aggressing Transactions in the last ten minutes of trading that result in a new Exchange high or low price for the day if such trade is the result of the DMM liquidating or decreasing a position would remove impediments to and perfect the mechanisms of a free and open market and a national market system because this exception is based on the current position-based review of whether a transaction would be prohibited, which does not prohibit such transactions, as well the current definition of ''Neutral Transactions'' which have no restrictions as to price. Further, the Exchange believes that the proposed exception would remove impediments to and perfect the mechanisms of a free and open market and a national market system because a DMM that reaches across the market when liquidating or decreasing a position is generally not doing so to favor a position leading into the close.

Moreover, the numerous obligations currently imposed by Rule 104 would in no way be altered or diminished by the proposal. The Exchange does not believe that the balance of benefits and obligations under Rule 104 would be impacted by this proposed rule change. DMMs would continue to be prohibited from engaging in specified transactions in the final ten minutes prior to the close. Moreover, the proposed rule would carry over the requirement that all DMM transactions be effected in a reasonable and orderly manner in relation to the condition of the general market and the market in the particular stock. These safeguards would reasonably ensure that DMM transactions bear a reasonable relationship to overall market conditions and that DMMs cannot destabilize, inappropriately influence or manipulate a security going into the close. For the same reasons, the proposed prohibition would not alter or disrupt the balance between DMM benefits and obligations of being an Exchange DMM.

Finally, revising the requirements for DMM transactions based on the type of DMM trading rather than the DMM's position, and amending Rule 98 to require that DMM units provide net position information to the Exchange on a daily basis and for such time periods as prescribed by the Exchange, would remove impediments to and perfect the mechanism of a free and open market and a national market system by simplifying and streamlining the requirements for DMM transactions. The Exchange further believes that the proposed rule change would promote just and equitable principles of trade and is designed to prevent fraudulent and manipulative acts and practices because DMMs would be required to provide net position information daily to the Exchange and the Exchange would be able to conduct automated surveillances monitoring for compliance with the amended rule for this exception.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange proposes amendments to the rule governing DMM obligations to simplify and streamline the requirements for DMM transactions. The Exchange believes that the proposal would promote competition by allowing DMMs to quote more aggressively in the final minutes of trading, thereby permitting DMMs to remain competitive with other traders both on the Exchange and on other trading venues, thereby enhancing the ability of DMMs to meet their affirmative obligation under Rule 104. The Exchange further believes that its proposed rules governing DMMs would not impose any burden on competition that is not necessary or appropriate because the proposed rules are designed to foster a fair and orderly marketplace without diminishing the balance of benefits and obligations under Rule 104 or altering or diminishing the numerous obligations currently imposed by Rule 104 on DMMs.

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. Summary of Comments Received

The Commission received one comment letter in support of the proposal as initially filed by the Exchange. The commenter asserts that the proposal materially increases the obligations of DMMs because the proposal would impose re-entry obligations on DMMs throughout the trading day, including following transactions that reduce or liquidate the DMM's position.[26] The commenter asserts that the proposed prohibition prior to the close of trading is also strengthened because it would eliminate reference to the DMM's position.[27] The commenter also states that it supports the proposed changes to the NYSE rule regarding prohibited transactions because it would modernize the rule to reflect market structure changes, retain a bright line rule negative obligation, and maintain an appropriate balance of benefits and obligations for DMMs.[28]

IV. Discussion and Commission Findings

After careful review of the proposal, as modified by Amendment No. 1, and the comments received, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[29] In particular, the Commission finds that the proposed rule change, as amended, is consistent with Section 6(b)(5) of the Act,[30] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Commission also finds that the proposed rule change, as amended, is consistent with Section 6(b)(8) of the

[26] *See* Citadel Letter, *supra* note 9, at 1.

[27] *See id.* at 2. This commenter also asserted that the prohibition would be strengthened because the rule would reference the consolidated high or low price of a security, rather than the high or low price on the NYSE, but Amendment No. 1, which was filed after this comment letter was submitted, changed the Exchange's proposal so that it no longer changed the reference price. *See id.*

[28] *See id.* The proposed rule change with respect to Prohibited Transactions was substantially altered by Amendment No. 1, which was filed after this comment letter was submitted.

[29] 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).

[30] 15 U.S.C. 78f(b)(5).

Act, which provides that the rules of a national securities exchange must not ''impose any burden on competition not necessary or appropriate in furtherance of the purposes of'' the Act.[31]

The Exchange has proposed to substantially modify the provisions of NYSE Rule 104(g) and (h) that govern the obligations of DMMs to re-enter the market after certain transactions in assigned securities and that prohibit certain transactions by DMMs in assigned securities near the end of the trading day.[32] Currently, whether a DMM's re-entry obligation is triggered depends, in the first instance, on whether the DMM's transaction establishes or increases the DMM's position or instead liquidates or decreases the DMM's position, and this distinction is reflected in the existing definitions in NYSE Rule 104(g) and (h) of Neutral Transactions, Non-Conditional Transactions, and Conditional Transactions.[33]

NYSE now proposes to eliminate these transaction-type definitions and replace them with a single transaction type called an Aggressing Transaction, which would be a DMM unit purchase (sale) that reaches across the market to trade with the Exchange's published offer (bid) and is priced above (below) both the last differently priced trade on the Exchange and the last differently priced offer (bid) on the Exchange. An Aggressing Transaction would be similar to a Conditional Transaction, which also involves a DMM reaching across the market, and the same re-entry obligations that apply to Conditional Transactions under current NYSE Rule 104 would apply to Aggressing Transactions under amended NYSE Rule 104. But, while Conditional Transactions by definition establish or increase a DMM position, whether a transaction is an Aggressing Transaction would not depend on the DMM's position.

The Commission believes that triggering DMM re-entry obligations based solely on whether the DMM is aggressively taking liquidity—rather than also considering a DMM's position at the time of trading—is consistent with the Act, because those re-entry obligations are based on price movement, rather than on the DMM's position. The Commission further notes that, while the Exchange proposes to eliminate the definitions of Neutral Transactions and Non-Conditional Transactions, which currently have their own re-entry obligations, those re-entry obligations are not substantially different from the DMMs' general obligations under NYSE Rule 104(a) to ''engage in a course of dealings for their own account to assist in the maintenance of a fair and orderly market'' and under NYSE Rule 104(f) to maintain ''price continuity with reasonable depth.'' Thus, the Commission does not believe that the Exchange's proposal to replace the existing categories of Neutral Transactions, Non-Conditional Transactions, and Conditional Transactions with a newly defined Aggressing Transaction would substantially alter the balance of DMM benefits and obligations previously approved by the Commission.[34]

The Exchange has also proposed to modify the existing definition of Prohibited Transactions. Under its initial proposal, the Exchange sought to make four substantive changes: (1) To limit the applicability of the prohibition to the last 10 seconds of trading before the close, rather than the last 10 minutes; (2) to change the price test in the rule to the high or low consolidated price for the day, rather than the high or low Exchange price for the day; (3) to remove from the Prohibited Transactions rule the focus on a DMM's position at the time of the transaction; and (4) to apply the Prohibited Transactions rule only to Aggressing Transactions, rather than including certain liquidity-providing trades.[35]

In its Order Instituting Proceedings, the Commission asked questions about whether the proposed changes were consistent with the Act.[36] The Exchange subsequently amended its proposal significantly with respect to Prohibited Transactions. First, the Exchange proposed to retain the existing 10-minute period for Prohibited Transactions. Second, the Exchange proposed to retain the existing price test for Prohibited Transactions. And third, the Exchange proposed to add an exception for transactions that would liquidate or decrease the position of the DMM unit, incorporating as a specific exception to the proposed Prohibited Transactions rule a transaction that is, by definition, not covered by the existing rule.[37]

The Commission believes that the Exchange's amended proposal with respect to Prohibited Transactions is consistent with the Act. While the language and structure of the Prohibited Transactions rule would be different, the only substantive difference between the Prohibited Transactions rule in Amendment No. 1 and the existing rule would be that DMMs could no longer potentially run afoul of the rule by passively providing liquidity through a quote that narrowed the spread in an assigned security. Consistent with its analysis in disapproving an earlier proposal by the Exchange to eliminate the Prohibited Transactions rule, the Commission does not believe that the provision of liquidity by DMMs under such circumstances risks destabilizing the market.[38]

Finally, the Exchange proposes to amend the obligation under NYSE Rule 98 of a member organization operating a DMM unit to provide the DMM unit's net position data to the Exchange. As amended, NYSE Rule 98 would require that daily data be provided for specified time periods, rather than requiring real-time data. The Commission notes that the DMM unit net position information to be provided will be relevant under amended NYSE Rule 104 only for the last 10 minutes of trading before the close—when the modified Prohibited Transactions rule would be in effect—and the Exchange represents that it will be able to effectively monitor for compliance with the proposed exception using information provided as required by amended NYSE Rule 98, rather than in real time, as required by current NYSE Rule 98.[39] The Commission therefore believes that this

[31] 15 U.S.C. 78(f)(8).

[32] The Exchange has also proposed to make non-substantive changes to renumber provisions within NYSE Rule 104 and to relocate existing rule text regarding Price Participation Points.

[33] *See* Section II.A.1, *supra.* Non-Conditional Transactions are distinguished from Conditional Transactions by whether a DMM has reached across the market to trade as the contra-side to an Exchange bid or offer. *See id.*

[34] *See* Securities Exchange Act Release No. 58845 (Oct. 24, 2008), 73 FR 64379, 64388–89 (Oct. 29, 2008) (SR–NYSE–2008–46) (approving NYSE New Market Model pilot and finding that it reflected ''an appropriate balance of DMM obligations against the benefits provided to DMMs''). *See also* Citadel Letter, *supra* note 9, at 1 (asserting that the proposal materially increases the obligations on DMMs during the trading day because the proposal would impose obligations following transactions that reduce or liquidate the DMM's position).

[35] *See* Notice, *supra* note 3.

[36] *See* Order Instituting Proceedings, *supra* note 7, 83 FR at 55764–65.

[37] Consistent with its initial proposal, the Exchange's amended proposal would also define a Prohibited Transaction as a type of Aggressing Transaction, rather than as a separate type of transaction, and it would retain the existing exceptions to the Prohibited Transactions rule for transactions that would match another market's better bid or offer or that would bring the price of an assigned security into parity with an underlying security or asset. *See* Proposed NYSE Rule 104(g)(1)(B).

[38] *See* Securities Exchange Act Release No. 81150 (July 1, 2017), 82 FR 33534, 33537 (July 20, 2018) (SR–NYSE–2016–71).

[39] Under amended NYSE Rule 98, DMMs would have to provide net position information on a same-day basis, but in no event later than trading day plus one.

change to NYSE Rule 98 is consistent with the Act.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Sections 6(b)(5) and 6(b)(8) of the Act and the rules and regulations thereunder applicable to a national securities exchange.

V. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2018–34 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–2018–34. 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–2018–34 and should be submitted on or before May 8, 2019.

VI. Accelerated Approval of Proposed Rule Change, as Modified By Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 1 in the **Federal Register**. As discussed above,[40] Amendment No. 1 substantially modifies the original proposed rule change with respect to the Prohibited Transactions rule, narrowing the proposed rule change significantly so that the only substantive change to the existing rule governing Prohibited Transactions would be to limit the applicability of the rule to instances in which a DMM was aggressively taking liquidity, rather than including certain instances in which a DMM was providing liquidity. As noted above, the Commission does not believe that the provision of liquidity by DMMs under these circumstances risks destabilizing the market.[41] Amendment No. 1 made no other substantive changes to the definition of Aggressing Transaction as published in the original Notice.[42]

Additionally, in Amendment No. 1, the Exchange proposes to amend Rule 98—which requires that member organizations operating a DMM unit provide the Exchange with real-time net position information for the DMM unit—to require that DMM unit net position information be provided to the Exchange on a daily basis and for such time periods as prescribed by the Exchange. The Commission believes this proposal does not raise regulatory concerns, as the Exchange has represented that it would be able to effectively monitor for compliance with the proposed exception to the Prohibited Transactions rule using information provided under an amended Rule 98, rather than in real time, as required under current Rule 98.[43]

Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[44] to approve the proposed rule change, SR–NYSE–2018–34, as modified by Amendment No. 1, on an acceleratedbasis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[45]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07707 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

[40] *See supra* notes 36–38 and accompanying text.

[41] *See supra* note 38 and accompanying text.

[42] *See* Notice, *supra* note 3.

[43] *See supra* note 39 and accompanying text.

[44] 15 U.S.C. 78s(b)(2).

[45] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85623; File No. 4–631]

Joint Industry Plan; Order Approving the Eighteenth Amendment to the National Market System Plan To Address Extraordinary Market Volatility by Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, NASDAQ BX, Inc., NASDAQ PHLX LLC, The Nasdaq Stock Market LLC, NYSE National, Inc., New York Stock Exchange LLC, NYSE American LLC, and NYSE Arca, Inc.

April 11, 2019.

I. Introduction

On November 5, 2018, NYSE Group, Inc., on behalf of the other parties [1] to the National Market System Plan to Address Extraordinary Market Volatility (the ''Plan''), filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 608 thereunder,[3] a proposal to amend the Plan [4] to, among other things, amend Section VIII of the Plan to transition the Plan from operating on a pilot to a permanent basis. The proposal represents the eighteenth amendment to the Plan, and reflects proposed changes unanimously approved by the Participants (''Eighteenth Amendment''). A copy of the Plan is

[1] Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Chicago Stock Exchange, Inc., the Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors Exchange LLC (''IEX''), NASDAQ BX, Inc., NASDAQ PHLX LLC, The NASDAQ Stock Market LLC (''Nasdaq''), New York Stock Exchange LLC (''NYSE''), NYSE Arca, Inc., NYSE National Inc., and NYSE American LLC (collectively, the ''Participants'').

[2] 15 U.S.C. 78k–1.

[3] 17 CFR 242.608.

[4] *See* Letter from Elizabeth King, General Counsel and Corporate Secretary, NYSE, to Brent Fields, Secretary, Commission, dated November 2, 2018 (''Transmittal Letter'').

attached hereto as Exhibit A. The proposed Eighteenth Amendment was published for comment in the **Federal Register** on December 26, 2018.[5] The Commission received three comment letters regarding the amendment.[6] This order approves the Eighteenth Amendment to the Plan as proposed.

II. Background

On May 6, 2010, the U.S. equity markets experienced a severe disruption.[7] Among other things, the prices of a large number of individual securities suddenly declined by significant amounts in a very short time period, before suddenly reversing to prices consistent with their pre-decline levels. The Commission was concerned that events such as those that occurred on May 6, 2010 could seriously undermine the integrity of the U.S. markets. Accordingly, Commission staff worked with the exchanges and FINRA (''SROs'') to develop policy responses that would help prevent a recurrence of the May 6 market disruption. Initially, the SROs developed a single-stock circuit breakers pilot program, implemented through a series of rule filings, to pause trading during periods of extraordinary volatility in all NMS Stocks, except rights and warrants.

As a replacement to the single-stock circuit breaker pilot, the Participants filed the Plan with the Commission on April 5, 2011 to create a market-wide limit up-limit down (''LULD'') mechanism intended to address extraordinary market volatility in ''NMS Stocks,'' as defined in Rule 600(b)(47) of Regulation NMS under the Exchange Act.[8] The Plan sets forth procedures that provide for market-wide limit up-limit down requirements to prevent trades in individual NMS Stocks from occurring outside of the specified Price Bands.[9] These limit up-limit down requirements are coupled with Trading Pauses, as defined in Section I(Y) of the Plan, to accommodate more fundamental price moves (as opposed to erroneous trades or momentary gaps in liquidity). The limit up-limit down mechanism is intended to reduce the negative impacts of sudden, unanticipated price movements in NMS Stocks, such as those experienced on May 6, 2010, thereby protecting investors and promoting a fair and orderly market.

The Plan was approved in May 2012 on a pilot basis to ''allow the Participants and the public to gain valuable practical experience with Plan operations during the pilot period'' and to assess ''whether further modifications of the Plan are necessary or appropriate prior to final approval.'' [10] After two amendments,[11] the initial date of Plan operations was April 8, 2013.[12] Since that date, the Plan has been amended fourteen times [13] and the pilot period has been extended six times.[14] The most recent substantive changes to the Plan were made through the Tenth,[15] Twelfth,[16] and Thirteenth [17] Amendments. On May 28, 2015, the Participants submitted a Supplemental Joint Assessment, in which the Participants provided additional analysis required under Appendix B.[18]

[5] *See* Securities Exchange Act Release No. 84843 (December 18, 2018), 83 FR 66464 (''Notice'').

[6] *See* Letter from Theodore R. Lazo, Managing Director and Associate General Counsel, The Securities Industry and Financial Markets Association (''SIFMA'') to Brent J. Fields, Secretary, Commission, dated January 16, 2019 (''SIFMA Letter''); Letter from Susan M. Olson General Counsel, Investment Company Institute; John Ramsay, Chief Market Policy Officer, IEX; T.R. Lazo, Managing Director and Associate General Counsel, SIFMA to Brent J. Fields, Secretary, Commission, dated January 16, 2019 (''ICI Letter''); Samara Cohen, Head of Global Markets, BlackRock; Timothy J. Coyne, Global Head of SPDR ETF Capital Markets, State Street Global Advisors; Stephen John Berger, Managing Director, Global Head of Government & Regulatory Policy, Citadel Securities; Tim Gately, Head of Americas Equities, Citigroup Global Markets Inc.; Chris Hempstead, Head ETF Sales, Deutsche Bank Securities Intl.; Luke Oliver, Head of US ETF Capital Markets, DWS Investment Management Americas Inc.; Bas Tammens, CFA, Head of Business Development, Flow Traders US LLC; Andrew Stevens, General Counsel, IMC; Eric M. Pollackov, Global Head of ETF Capital Markets, Invesco Ltd.; Michael Lewin, CEO, Istra LLC; Frank Liu, Chief Compliance Officer, Jane Street Capital, LLC; Michael Lieder, Head of US ETF Capital Markets, J.P. Morgan Asset Management; Christopher Berthe, Head of Global Cash Execution, Equities, J.P. Morgan Securities LLC; Sapna Patel, Head of Americas Market Structure and Liquidity Strategy, Morgan Stanley & Co. LLC; Sean Stanzak, RBC Capital Markets; Damon Walvoord, ETF Business Development, Susquehanna International Group; Jim Toes, President and CEO, Security Traders Association; Mehmet Kinak, Global Head of Systematic Trading and Market Structure, T. Rowe Price Associates, Inc.; Vlad Khandros, Global Head of Market Structure and Liquidity Strategy, UBS Securities LLC; Ryan Ludt, Global Head of ETF Capital Markets, Vanguard; John Dibacco, Global Head Equities Trading, Virtu Financial Inc.; Anita Rausch, Head of Capital Markets, WisdomTree Asset Management, Inc. to Brent J. Fields, Secretary, Commission, dated January 30, 2019 (''Market Participants Letter'').

[7] The events of May 6 are described more fully in a joint report by the staffs of the Commodity Futures Trading Commission and the Commission. *See Report of the Staffs of the CTFC and SEC to the Joint Advisory Committee on Emerging Regulatory Issues,* ''Findings Regarding the Market Events of May 6, 2010'' (September 30, 2010), *available at http://www.sec.gov/news/studies/2010/marketevents-report.pdf.*

[8] 17 CFR 242.600(b)(47). *See also* Section I(H) of the Plan.

[9] Unless otherwise specified, the terms used herein have the same meaning as set forth in the Plan or the revisions to the Plan proposed in the Eighteenth Amendment. *See* Notice, *supra* note 5, Exhibit A.

[10] *See* Securities Exchange Act Release No. 67091, 77 FR 33498 (June 6, 2012) (File No. 4–631) (''Plan Approval Order'') (approving Plan as amended).

[11] *See* Securities Exchange Act Release Nos. 68953 (February 20, 2013), 78 FR 13113 (February 26, 2013) (noticing for immediate effectiveness the Second Amendment to the Plan); 69287 (April 3, 2013), 78 FR 21483 (April 10, 2013) (approving the Third Amendment to the Plan).

[12] *See* Securities Exchange Act Release No. 68953 (February 20, 2013), 78 FR 13113 (February 26, 2013).

[13] On August 27, 2013, the Commission noticed for immediate effectiveness the Fourth Amendment to the Plan. *See* Securities Exchange Act Release No. 70273, 78 FR 54321 (September 3, 2013). On September 26, 2013, the Commission approved the Fifth Amendment to the Plan. *See* Securities Exchange Act Release No. 70530, 78 FR 60937 (October 2, 2013). On January 7, 2014, the Commission noticed for immediate effectiveness the Sixth Amendment to the Plan. *See* Securities Exchange Act Release No. 71247, 79 FR 2204 (January 13, 2014). On April 3, 2014, the Commission approved the Seventh Amendment to the Plan. *See* Securities Exchange Act Release No. 71851, 79 FR 19687 (April 9, 2014) (''Seventh Amendment Approval Order''). On February 19, 2015, the Commission approved the Eight Amendment to the Plan. *See* Securities Exchange Act Release No. 74323, 80 FR 10169 (February 25, 2015) (''Eighth Amendment Approval Order''). On October 22, 2015, the Commission approved the Ninth Amendment to the Plan. *See* Securities Exchange Act Release No. 76244, 80 FR 66099 (October 28, 2015) (''Ninth Amendment Approval Order''). On April 21, 2016, the Commission approved the Tenth Amendment to the Plan. *See* Securities Exchange Act Release No. 77679, 81 FR 24908 (April 27, 2016) (''Tenth Amendment Approval Order''). On August 26, 2016, the Commission noticed for immediate effectiveness the Eleventh Amendment to the Plan. *See* Securities Exchange Act Release No. 78703, 81 FR 60397 (September 1, 2016). On January 19, 2017, the Commission approved the Twelfth Amendment to the Plan. *See* Securities Exchange Act Release No. 79845, 82 FR 8551 (January 26, 2017) (''Twelfth Amendment Approval Order''). On April 13, 2017, the Commission approved the Thirteenth Amendment to the Plan (''Thirteenth Amendment Approval Order''). *See* Securities Exchange Act Release No. 80455, 82 FR 18519 (April 19, 2017). On April 28, 2017, the Commission noticed for immediate effectiveness the Fourteenth Amendment to the Plan. *See* Securities Exchange Act Release No. 80549, 82 FR 20928 (May 4, 2017). On September 26, 2017, the Commission noticed for immediate effectiveness the Fifteenth Amendment to Plan. *See* Securities Exchange Act Release No. 81720, 82 FR 45922 (October 2, 2017). On March 15, 2018, the Commission noticed for immediate effectiveness the Sixteenth Amendment to the Plan. *See* Securities Exchange Act Release No. 82887, 83 FR 12414 (March 21, 2018) (File No. 4–631). On April 12, 2018, the Commission approved the Seventeenth Amendment to the Plan. *See* Securities Exchange Act Release No. 83044, 83 FR 17205 (April 18, 2018) (''Seventeenth Amendment Approval Order'').

[14] *See* Seventh Amendment Approval Order; Eighth Amendment Approval Order; Ninth Amendment Approval Order; Tenth Amendment Approval Order; Thirteenth Amendment Approval Order; Seventeenth Amendment Approval Order, *supra* note 13.

[15] *See* Tenth Amendment Approval Order, *supra* note 13.

[16] *See* Twelfth Amendment Approval Order, *supra* note 13.

[17] *See* Thirteenth Amendment Approval Order, *supra* note 13.

[18] *See* Ninth Amendment Approval Order, *supra* note 13.

III. Description of the Proposal

In the Eighteenth Amendment, the Participants propose to: (i) Amend Section VIII of the Plan to transition the Plan from operating on a pilot to a permanent basis; (ii) adopt a mechanism for periodic review and assessment of the Plan; (iii) eliminate the doubling of the Percentage Parameters between 9:30 a.m. and 9:45 a.m.; and (iv) eliminate the doubling of the Percentage Parameters between 3:35 p.m. and 4:00 p.m., or in the case of an early scheduled close, during the last 25 minutes of trading before the early scheduled close, for Tier 2 NMS Stocks with a Reference Price above $3.00.

IV. Summary of Comments Received

The Commission received three comment letters regarding the amendment.[19] All three commenter letters support approval of the Eighteenth Amendment.[20] Two commenters specifically support the proposal to transition the plan from a pilot to operating on a permanent basis, subject to periodic review and assessment.[21] Two commenters support the proposal to eliminate the doubling of percentage parameters,[22] with both commenters providing specific rationales for eliminating doubling of parameters between 9:30 a.m. and 9:45 a.m.,[23] and one commenter providing specific support for the elimination of double-wide Price Bands at the close for certain securities.[24]

Beyond addressing the proposals in the Eighteenth Amendment, one commenter urges the Commission to add representatives of non-SRO experts, including advisers to registered funds and broker-dealers, to the operating committee of the Limit Up-Limit Down Plan and other NMS plans.[25] Another commenter recommends that the Commission, after adopting the proposal, adopt the recommendation of the Equity Market Structure Advisory Committee (''EMSAC'')[26] to review clearly erroneous execution (''CEE'') rules to promote certainty of execution so that all trades executed within the Limit Up-Limit Down Plan bands stand.[27]

V. Discussion and Commission Findings

The Commission finds that the Eighteenth Amendment, as proposed, is consistent with the requirements of the Act and the rules and regulations thereunder. Specifically, the Commission finds that the Eighteenth Amendment is consistent with Section 11A of the Act[28] and Rule 608 thereunder[29] in that, as discussed below, the proposal is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, and that it removes impediments to, and perfects the mechanism of, a national market system.

Proposal for Plan To Operate on a Permanent Basis

The Plan was originally approved on a pilot basis to allow the public, the Participants, and the Commission to assess the operation of the Plan and whether the Plan should be modified prior to consideration of approval on a permanent basis.[30] The Plan has been operating on a pilot basis since its inception.[31] The Participants are now proposing to make the Plan permanent, with procedures to help ensure regular monitoring of the LULD mechanism.[32]

In support of their proposal for permanence, the Participants state that during the pilot period they collected and provided to the Commission and the public with a significant amount of data on the Plan's performance to aid in an assessment of its operations.[33] The Participants state that the data collected during the pilot period and studies conducted by the Participants and the Commission's Division of Economic and Risk Analysis (''DERA'') show that the Plan has been beneficial to the markets by serving to dampen price volatility.[34] The Participants cite a DERA analysis that, depending on the methodology employed, found evidence that the LULD mechanism reduced extraordinary transitory volatility relative to the Single Stock Circuit Breaker (''SSCB'') mechanism that was in place prior to the LULD mechanism.[35] The Participants also rely on the results of the Supplemental Joint Assessment by the Participants that found that the number of trades that were cancelled decreased under the Plan and that the Plan's parameters were successful in preventing trades from occurring outside of the Price Bands, thus avoiding the types of mispriced trades that resulted in the Flash Crash.[36]

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[19] *See supra* note 6.

[20] *See* SIFMA Letter, *supra* note 6, at 1 (recommending the Commission adopt the proposal); ICI Letter, *supra* note 6, at 1 (urging Commission to approve the proposal); Market Participants Letter *supra* note 6, at 1 (stating collective support for the proposals in the Eighteenth Amendment).

[21] *See* SIFMA Letter, *supra* note 6, at 2 (stating the plan has been effective in suspending trading before execution when a security experiences extraordinary price volatility and has been effective during particularly volatile market conditions like August 24, 2015 and February 2018); Market Participants Letter *supra* note 6, at 1 (stating that the Plan helps not only to ensure orderly markets in periods of extraordinary volatility, but also prevents potentially harmful price volatility during normal market conditions).

[22] *See* SIFMA Letter, *supra* note 6, at 2–3 (stating that eliminating double-wide Price Bands should reduce volatility and not result in a significant increase in limit states and trading pauses during that time, and that market participants will adjust their quotes to be within the tighter Price Bands); Market Participants Letter *supra* note 6, at 2.

[23] *See* SIFMA Letter, *supra* note 6, at 3 (stating that narrowing of the Price Bands at 9:45 a.m. has led to some extraneous halts from quotations not being updated before the narrowing and citing the proposal's statement that over 21% of all limit states and trading pauses occur in the five minutes following the contraction of Price Bands); Market Participants Letter *supra* note 6, at 2 (stating that although elimination of double-wide Price Bands between 9:30 a.m. and 9:45 a.m. could increase the number of LULD trading pauses that occur during this time period, it will help reduce the number of extraneous halts that occur at or shortly after 9:45 a.m. and that on August 24th, 2015, the tightening of LULD parameters at 9:45 a.m. impeded price discovery as markets recovered following rapid declines at the start of regular trading hours).

[24] *See* Market Participants Letter *supra* note 6, at 1 (stating that doubling the LULD Percentage Parameters for these securities is unwarranted and leaves investors at risk of extreme price movements).

[25] *See* ICI Letter *supra* note 6, at 1 (stating that the Plan governance framework fails to take account of the interests of non-SROs and the potential contributions non-SROs could make to NMS plan governance and that NMS plan operating committees would be far better informed-and less influenced by conflicts of interest if they included non-SRO representatives). While this is outside the scope of this proposed amendment, SEC staff will consider this comment to the extent it is relevant in connection with future regulatory recommendations.

[26] SEC Equity Market Structure Advisory Committee, *Recommendations for Rulemaking on Issues of Market Quality* (November 29, 2016), *available at https://www.sec.gov/spotlight/emsac/emsac-recommendations-rulemaking-market-quality.pdf.*

[27] *See* SIFMA Letter *supra* note 6, at 3 (stating that the inconsistencies between CEE levels and Plan stock tiers and Price Bands result in some executions within Plan Price Bands breaking pursuant to CEE rules with narrower percentage ranges). The Commission notes that the CEE rules are contained in the various SRO rulebooks and function independently of the Plan as previously operated or as will be operated pursuant to Amendment 18. *See, e.g.,* NYSE Rule 128(a); CBOE BZX Rule 11.17; IEX Rule 11.270. The Commission would consider, pursuant to the Exchange Act, any proposed rule changes that would modify operation of the current CEE rules.

[28] 15 U.S.C. 78k–1.

[29] 17 CFR 242.608.

[30] *See* Plan Approval Order, *supra* note 10, at 33508.

[31] *See* Plan Approval Order, *supra* note 10.

[32] *See* Notice, *supra* note 5, at 66466, 66471.

[33] *See id.* at 66466.

[34] *See id.*

[35] *See id.* (*citing* '''Limit Up-Limit Down'' Pilot Plan and Extraordinary Transitory Volatility'', by Paul Hughes, John Ritter, and Hao Zhang, DERA (December 2017), *available at https://www.sec.gov/comments/4-631/4631-2830173-161647.pdf.*)

[36] *See id.* (*citing* National Market System Plan Assessment to Address Extraordinary Market Volatility (the ''Supplemental Joint Assessment'' or ''Assessment''), *available at https://www.sec.gov/comments/4-631/4631-39.pdf.*)

The Participants further state that recent amendments approved by the Commission have improved the operation of the Plan.[37] Amendment No. 10 changed the manner in which Reference Prices were determined in situations where a security opened for trading on a quote rather than a trade. Prior to implementation of Amendment No. 10, Participants state that Reference Prices in these situations triggered Limit States and Trading Pauses at inaccurate price levels.[38] After implementation of Amendment No. 10, data provided by the Participants in the Transmittal Letter showed the number of Trading Pauses dropped significantly.[39] A White Paper written by DERA confirmed these findings.[40]

Additionally, the Participants note that the implementation of Amendment Nos. 12 and 13 in November 2017 modified the operation of the Plan to address issues that were uncovered by market events on August 24, 2015.[41] These changes, which were made alongside coordinated changes by Primary Listing Exchanges to their reopening auction processes, were designed to avoid repeated Trading Pauses by improving the accuracy of reopening prices.[42] To achieve this, the Plan was amended to prohibit trade resumption until a Primary Listing Exchange conducted a reopening auction, a feature that was designed to concentrate liquidity in the reopening auctions.[43] The Primary Listing Exchanges also harmonized aspects of their reopening auction processes that provided for gradual extension of auction time frames accompanied by a gradual widening of auction price ranges with each auction extension.[44] The Participants state that since these changes, although there has not been an event like August 24, 2015, there has been stable price continuity at the open and following reopenings after a Trading Pause, and the amended Plan has worked well during normal market conditions as well as the volatile market activity that occurred in February 2018.[45]

The Commission notes that the analysis presented by the Participants, in addition to other analyses, demonstrates that the Plan has operated effectively in accomplishing its stated goal of addressing extraordinary market volatility.[46] For example, the analysis presented in the Supplemental Joint Assessment demonstrates that the Plan has been effective in reducing volatility by showing that the Plan has reduced the frequency of multiple cancellation events that occur compared to the period during which the SSCB mechanism was in effect, as well as the time period before the SSCB mechanism was in effect.[47] The Commission notes that this analysis is also consistent with other analyses. One of the DERA White Papers cited by the Participants also found that the Plan's mechanism reduced extraordinary transitory volatility relative to the SSCB mechanism, as well as the time period before the SSCB mechanism was in effect.[48] Both the Supplemental Joint Assessment[49] and a DERA White Paper[50] demonstrate that over 90% of Limit States resolve themselves in less than five seconds. Alternatively, the Commission notes that other analysis has found that the LULD mechanism increased the number of trading pauses and cancelled trades in Tier 2 securities compared to the SSCB mechanism.[51] However, since this study focused on the time period before the implementation of Amendment 10, the results could be driven by bad Reference Prices that resulted from opening auctions with no trades. Both a DERA White Paper[52] and the Transmittal Letter from the Participants,[53] present analysis that demonstrates that Amendment 10 reduced the number of Trading Pauses that occurred during the trading day.

The Participants have worked together with the Plan Advisory Committee to identify instances where improvements to the Plan were necessary, and developed and implemented amendments to the Plan to modify the operation of the LULD mechanism to help ensure its continued effectiveness over time.[54] As a result of these efforts and based on analyses of the Plan's operation, the Commission believes that the LULD mechanism effectively addresses extraordinary market volatility, and therefore is approving the Plan on a permanent basis.

The Commission recognizes, however, that the market is dynamic and constantly evolving and that the Participants will continue to study the Plan. As a result, certain features or parameters used in the LULD mechanism may require modifications over time for the mechanism to remain effective. For example, the occurrence of CEE events and long-lasting Straddle States, *i.e.* Straddle States that last longer than five minutes,[55] demonstrate that the parameters for Price Bands set forth in the Plan need to continue to be monitored in order to ensure their

[37] *See id.* at 66467.

[38] *See id.*

[39] *See id.* at 66468–9.

[40] *See id.* at 66469 (citing ''The Effects of Amendment No. 10 of the 'Limit Up-Limit Down' Pilot Plan'', by Paul Hughes, DERA (December 2017), *available at https://www.sec.gov/comments/4-631/4631-2830189-161648.pdf.*)

[41] *See id.* at 66469–70.

[42] *See id.*

[43] *See* Twelfth Amendment Approval Order; Thirteenth Amendment Approval Order, *supra* note 13.

[44] *See* Securities Exchange Act Release Nos. 79846 (January 19, 2017), 82 FR 8548 (January 26, 2017) (SR–NYSEArca–2016–130); 79884 (January 26, 2017), 82 FR 8968 (February 1, 2017) (SR–BatsBZX–2016–61); 79876 (January 25, 2017), 82 FR 8888 (January 31, 2017) (SR–Nasdaq–2016–131). The Primary Listing Exchanges implemented these changes to their automated reopenings on November 20, 2017.

[45] *See* Notice, *supra* note 5, at 66470. The Commission notes that while the Participants have not yet published a data analysis of the effects of Amendments 12 and 13, the effectiveness of these amendments will continue to be assessed as part of the proposed ongoing review of the Plan described in detail below.

[46] *See also* Market Participants Letter, *supra* note 6, at 1 (stating, ''We support making LULD permanent, subject to periodic review and assessment, because we believe LULD is beneficial to the national market system. LULD not only helps to ensure orderly markets in periods of extraordinary volatility, but also prevents potentially harmful price volatility during normal market conditions, when transitory gaps in liquidity may occur for non-fundamental reasons''); SIFMA Letter, *supra* note 6, at 2 (stating, ''[T]he Limit Up-Limit Down Plan has been effective during particularly volatile market conditions. As evidenced by the market events on August 24, 2015, the Limit Up-Limit Down Plan bands work to limit runaway stocks and panic selling or buying. Additionally, in February 2018, the Limit Up-Limit Down Plan operated as intended to reduce volatility by keeping prices within the bands. As a result, the Limit Up-Limit Down Plan falls within the Commission's mission to protect investors and promote fair, orderly, and efficient markets, and the plan should be made permanent'').

[47] *See* Supplemental Joint Assessment, *supra* note 36, at 34–35. For purposes of the Supplemental Joint Assessment, a multiple cancellation event is an event in which there were six or more cancelled trade reports for a single stock during the day.

[48] *See supra* note 35.

[49] *See* Supplemental Joint Assessment, *supra* note 36, at 19.

[50] *See* '''Limit Up-Limit Down' Pilot Plan and Associated Events'', by Claudia Moise and Paca Flaherty, DERA (March 2017), (*available at https://www.sec.gov/files/dera-luld-white-paper.pdf*) at 25.

[51] *See id.,* at 28–31.

[52] *See supra* note 40.

[53] *See* Charts A and B in the Notice, *supra* note 5, at 66468–9.

[54] *See infra* notes 15–17 and accompanying text for descriptions of Amendment Nos. 10, 12 and 13.

[55] DERA contracted with Cornerstone Research to analyze the occurrence of long-lasting Straddle States under the Plan. The analysis found over 140 long-lasting Straddle States occurred each day and that they were more likely to occur in securities with lower trading volume, higher volatility, and smaller market capitalizations and on days when no trade occurs during the opening. *See* ''Memorandum from Division of Economic and Risk Analysis regarding Cornerstone Analysis of Long-Lasting Straddle State'', dated December 2017, *available at https://www.sec.gov/files/DERA_Memo_on_a_Cornerstone_Straddle_State_Analysis.pdf.*

calibration is appropriate.[56] The Participants acknowledge the need for ongoing review of these and other types of potential issues, and have proposed a process that will include quarterly, annual, and ad hoc reports that will facilitate an ongoing assessment of the Plan's effectiveness.[57]

Proposed Mechanism for Periodic Review and Assessment

The Participants state that the proposed ongoing review and assessment procedures are designed to ensure that the Plan will be monitored continually in a data-driven manner.[58] Pursuant to this periodic reporting and assessment mechanism, the Participants propose to provide the Commission, and make publicly available, three categories of reports concerning the Plan's ongoing operation: (1) An annual report produced in consultation with the Advisory Committee assessing the Plan's performance,[59] which would include an update on the Plan's operations,[60] an analysis of any amendments to the Plan implemented during the period covered by the report,[61] and an analysis of potential material emerging issues that may directly impact the operation of the Plan;[62] (2) quarterly reports providing basic statistics that could be used to identify trends in the performance and impact of the Plan on market activity;[63] and (3) upon Commission request, an *ad hoc* report on the effectiveness of LULD following a significant market event.[64]

The Commission believes that a process for the ongoing evaluation of the Plan is critical for its permanent approval. Markets evolve, and the Commission believes that a process for assessing the effectiveness of the Plan over time will help ensure that the Plan continues to achieve its objective of reducing extraordinary volatility. In order to assess its effectiveness and identify appropriate modifications to the Plan, data and analysis of the ongoing functions of the LULD mechanism must be produced, reviewed and considered. In addition to the Participants, Advisory Committee members and the Commission having access to data and analyses regarding the Plan's performance, making such information available to the public will promote a robust public dialogue regarding the Plan's effectiveness.

As proposed, the Participants will provide the Commission and make available publicly quarterly reports, including basic statistics that can be used to identify trends in the performance of the LULD mechanism and its impact on market activity. In addition, the Participants will provide the Commission, and make available publicly on the LULD website,[65] an Annual Report containing an analysis of the Plan's operation, including an examination of the parameters for Price Bands set forth in the Plan. The Annual Report will also include an analysis of the impact of any amendments to the Plan on the operation on the LULD mechanism. Finally, the Annual Report will discuss and analyze the LULD mechanism's performance during any significant market event that occurred during the period covered by the Annual Report, as well as any analyses performed on issues raised in the previous Annual Report. The Participants intend to submit the first Annual Report no later than March 31, 2020.[66] The Participants will also provide to the Commission upon request, and make publicly available, a report analyzing the Plan's operation during a significant market event to the extent it is not reported in the Annual Report. In addition to these reports, the Participants will provide the Commission upon request within 30 days, data that is not otherwise publicly available and is substantially similar to the data they are required to provide under the current Plan.[67]

The Commission believes the ongoing review and assessment requirements proposed by the Participants will both facilitate a robust, data-driven assessment of the Plan's effectiveness and provide the Commission and the public sufficient transparency of the effectiveness of the LULD mechanism necessary to help ensure the Plan remains designed to achieve its objective.

Proposal To Amend Calculation of Percentage Parameters

The Participants propose to (i) eliminate the doubling of the Percentage Parameters between 9:30 a.m. and 9:45 a.m.; and (ii) eliminate the doubling of the Percentage Parameters between 3:35 p.m. and 4:00 p.m., or in the case of an early scheduled close, during the last 25 minutes of trading before the early scheduled close, for Tier 2 NMS Stocks with a Reference Price above $3.00.

A. Elimination of Double-Wide Percentage Parameters at the Open

Currently under the Plan, between 9:30 a.m. and 9:45 a.m. (''the Open''), the Price Bands are calculated by applying double the Percentage Parameters. The Percentage Parameters are doubled to accommodate higher volatility at the Open.[68] The

[56] Under the amendments, data on the frequency of occurrence of Straddle States and Clearly Erroneous Executions (*i.e.* CEE events) will be contained in the Monitoring Report. *See* Notice, *supra* note 5, at 66472–3. Additionally, under the amendments, the Annual Report will examine the calibration of the parameters set forth in the Plan, including the impact of Straddle States. *See* Notice, *supra* note 5, at 66472.

[57] *See* Notice, *supra* note 5, at 66471.

[58] *See id.*

[59] Any analysis conducted by the Participants and included in the Annual Report will be based on aggregated data from all relevant exchanges and FINRA, depending on the issue that is being analyzed, and will be posted on the Plan website. *See id.* at 66472.

[60] This section of the Annual Report will examine the calibration of the parameters set forth in the Plan (*e.g.,* Price Bands, duration of Limit States, impact of Straddle States, duration of Trading Pauses, and the performance of reopening procedures following a Trading Pause), consider stock characteristics and variations in market conditions over time, and include tests that differentiate results for different characteristics, both in isolation and in combination. *See id.* at 66472.

[61] The analysis will include a discussion of the amendment's operation and its impact on the overall operation of the Plan. *See id.*

[62] This section of the Annual Report will vary from year-to-year and include a discussion and analysis of the Plan's operation during a significant market event that may have occurred during the covered period. It will also include any additional analyses performed during the covered period on issues that were raised in previous Annual Reports. The Participants intend to discuss the November 29, 2016 recommendations made by EMSAC's Market Quality Subcommittee in this section of the first Annual Report, which will be produced by March 31, 2020. *See id.*

[63] The Participants will provide the Commission and make publicly available a report including basic statistics regarding the Plan's operation 30 days following the end of each calendar quarter, during the preceding calendar quarter as well as aggregated data from the previous 12 quarters beginning with the calendar quarter covered by the first report. The data included will be collected and transmitted to the Commission in an agreed-upon format that would allow for the download and analysis by the Commission and the public. *See id.*

[64] Upon Commission request, the Plan Operating Committee will provide the Commission and make publicly available a report analyzing the Plan's operation during a significant market event that (1) materially impacted the trading of more than one security across multiple Trading Centers; (2) and is directly related to or implicating the performance of the Plan. *See id.*

[65] The website can be found at *http://www.luldplan.com.* The Commission encourages the Participants to make Annual Reports freely available on a continuous basis and in a format that is easily accessible on the LULD website. Proposed Appendix B of the Plan provides that all data shall be collected and transmitted to the Commission in an agreed-upon format, and the Participants represent that this format would allow for the download and analysis by the Commission and the public. *See* Notice, *supra* note 5, at 66472, Exhibit A. The Commission encourages the Participants to make data and information available on the LULD website not subject to any restrictions, including restrictions on access, retrieval, distribution, and reuse.

[66] *See* Transmittal Letter, *supra* note 4.

[67] The Participants may submit this data with a request for confidential treatment pursuant to the Commission's rules and regulations under the Freedom of Information Act. *See* 17 CFR 200.83.

[68] *See* Plan Section V.A.1.

Participants propose to eliminate the double-wide Percentage Parameters at the Open.[69] The Participants make two arguments for narrowing Price Bands at the Open.

First, the Participants argue that the current contraction of price bands at 9:45 causes unnecessary Limit States and Trading Pauses. In support of this argument, the Participants provide data that shows there is a disproportionate number of Limit States and Trading Pauses that occur at or shortly after 9:45 a.m., which is the only time during the trading day that the Price Bands contract.[70] Furthermore, the Participants present evidence that the contraction of Price Bands at 9:45 causes Limit States and Trading Pauses at 9:45 a.m. that are not due to market volatility.[71] Second, the Participants argue that narrower Price Bands at the Open would prevent erroneous trades during this time period by pausing trading at the narrower Price Bands rather than allowing such trades to execute at erroneous prices.[72] The Participants present evidence that there are a disproportionate number of erroneous trades at the Open when the Price Bands are double-wide.[73]

While the Participants present evidence that narrowing the Price Bands at the Open could be beneficial to the market, the Participants also present data analyzing the potential negative impact of narrowing Price Bands at the Open. This data shows that if double-wide Percentage Parameters are eliminated at the Open, the number of Limit State and Trading Pauses could quadruple in NMS Stocks and could triple in ETPs.[74] The Participants argue that this projected increase in Limit States and Trading Pauses may not occur, however, because they and the Advisory Committee anticipate that market participants will quickly adapt systems to quote within the new, narrower Price Bands.[75]

As noted above, commenters support narrowing the Price Bands at the Open. One commenter argues that narrowing the Price Bands should reduce volatility and not result in a significant increase in Limit States and Trading Pauses as market participants will adjust their quotes to be within the narrower Price Bands.[76] Other commenters similarly argue that narrowing Price Bands at the Open would promote continuous trading by helping reduce the number of extraneous halts that occur shortly after 9:45 a.m., although these same commenters recognize that there could be an increase in the number of Trading Pauses between 9:30 a.m. and 9:45 a.m.[77] These commenters also argue that band contraction at 9:45 a.m. has been shown to harm price discovery.[78]

Calibration of the Price Bands requires the balancing of dual objectives: Preventing extraordinary volatility and facilitating price discovery. On one hand, if Price Bands are too wide, there is potential for extraordinary volatility resulting in trades at prices far away from a security's fundamental value, ultimately harming investors that are party to the trade. On the other hand, if Price Bands are too narrow, there is a potential for increased Trading Pauses that could impede price discovery for a security, also resulting in investor harm.[79]

By proposing to narrow the Price Bands at the Open, the Participants (and the market participants commenting in favor of the proposal) believe a better balance can be achieved in favor of preventing extraordinary volatility that could result in erroneous trades at the Open. As the Participants demonstrate, the wider Price Bands currently employed have resulted in a number of trades that qualify as clearly erroneous executions under current SRO rules. Preventing trades that qualify as clearly erroneous executions protects investors that may have traded at bad prices. Preventing these trades also promotes better liquidity provision, as liquidity providers would be certain that executed trades will stand and that their hedging trades will not need to be unwound at potential losses.

The trade-off, however, is that there could be more Limit States and Trading Pauses during this most volatile period of the trading day,[80] potentially impeding price discovery. Indeed, the Participants' historical analysis demonstrates that the number of Limit States could quadruple for NMS Stocks and triple for ETPs.[81] The Participants believe, however, that the benefits of narrower Price Bands may be achieved without resulting in an increase in Limit States and Trading Pauses, arguing that their historical analysis is only theoretical and the number of Limit States and Trading Pauses overall will decrease at the Open because they expect that market participants will adjust their quoting behavior to narrower price bands.[82]

In approving this proposal, the Commission recognizes the dual objectives served by the Price Bands. While the Commission acknowledges that narrowing the Price Bands during the most volatile period of the trading day[83] could potentially harm the price discovery process, the Commission recognizes the benefits of preventing extraordinary volatility discussed above,[84] and believes that the amendment is an appropriate resolution regarding the balance of these dual objectives. The Commission also notes that no commenters opposed the proposed rebalancing of the dual objectives of preventing extraordinary volatility and facilitating price discovery.

In approving this proposal, the Commission notes that the Participants have committed to analyzing the performance of narrower Price Bands at the Open in a future Annual Report.[85] The Commission looks forward to reviewing that analysis. The Commission notes that an analysis of anticipated adjustments to quoting behavior prior to implementation of the proposed changes would not have been practical. As part of their future analysis, the Commission is particularly interested in whether the data demonstrate a change in quoting behavior by market participants, as argued by the Participants and commenters, and if there is no change in quoting behavior, the extent to which Trading Pauses and Limit states negatively impact price discovery and whether the Participants continue to believe that the narrower Price Bands at the Open remain warranted.

[69] *See* Notice, *supra* note 5, at 66473.

[70] *See id.*

[71] *See id.* at 66473–4.

[72] *See id.*

[73] *See id.* at 66475.

[74] *See id.* at 66475–76 (eliminating the doubling of Percentage Parameters between 9:30 a.m. and 9:45 a.m. would increase the number of NMS Stocks that experience a Limit State from 1.3 to 5.5 per day, and increase the number of ETP that experience a Limit States from 0.5 per day to 1.4 per day).

[75] *See id.*

[76] *See* SIFMA Letter, *supra* note 6, at 2–3.

[77] *See* Market Participants Letter *supra* note 6, at 2.

[78] *See id.*

[79] *See* Plan Approval Order, *supra* note 10, at 33503 (quoting commenter's statement that ''trading halts interfere with the natural interaction of orders and the price discovery process''), 33504 (noting that Participants stated in their response letter that they believed that the proposed doubling of the Percentage Parameters around the opening and closing periods was appropriate in light of the increased volatility at those times).

[80] The Participants data in Chart D demonstrates that the most volatile period of the trading day is between 9:30 a.m. and 9:45 a.m. *See* Notice, *supra* note 5, at 66474. *See also* Market Participants Letter *supra* note 6, at 2 (acknowledging the potential for more Trading Pauses at the Open as a result of narrower Price Bands).

[81] *See supra* note 74.

[82] *See* Notice, *supra* note 5, at 66476; *see also* SIFMA Letter, *supra* note 6, at 2–3

[84] As noted above, preventing extraordinary volatility that could result in erroneous trades both protects investors and promotes liquidity provision.

[85] *See* Transmittal Letter, *supra* note 4, at 18.

B. Elimination of Double-Wide Percentage Parameters at the Close

Similar to the Percentage Parameters in place at the Open, between 3:35 p.m. and 4:00 p.m., or in the case of an early scheduled close, during the last 25 minutes of trading before the early scheduled close (''the Close''), the Percentage Parameters are doubled to accommodate increased volatility that may occur at the Close.[86] The Participants are proposing to eliminate double-wide Percentage Parameters at the Close for Tier 2 NMS Stocks 2 with a Reference Price above $3.00.[87] This would result in narrowing the Price Bands from 20% to 10% at the Close for these securities.[88]

In particular, the Participants state that this proposed change is intended to dampen extreme price movements that may occur inside of the current Price Bands near the Close, noting that the current double-wide Percentage Parameters would accommodate price swings of as much as 40% when trading from the Upper Price Band to the Lower Price Band.[89] The Participants state that the original concerns about volatility around the close were unfounded with respect to Tier 2 NMS Stocks.[90] The Participants present data showing that only a *de minimis* number of trades actually occur outside of the regular 10% Percentage Parameter, and that therefore the doubling of the Percentage Parameters for Tier 2 NMS Stocks at the close is unwarranted.[91] Further, the Participants present data that shows that the average number of Trading Pauses at the Close is nearly ten times lower than the average number of Trading Pauses for any other 25 minute period across the trading day.[92]

However, the Participants acknowledge that if the double-wide Percentage Parameters at the Close were eliminated, the number of Trading Pauses would approximately triple based on their historical analysis, though the average number of Trading Pauses at the Close would still be lower than the average for any other 25 minute period across the trading day.[93] Further, as with the proposal to eliminate double-wide Percentage Parameters at the Open, the Participants argue that this projected increase may not occur, because market participants may make behavioral changes to adjust to the new, narrower Price Bands, such that Trading Halts may not increase as projected.[94]

The Participants state that there have been discussions around eliminating clearly erroneous rules when the Plan is in effect. They note that without the backstop of clearly erroneous rules, it is vital that the Price Bands are appropriately tailored to prevent trades that are so far from current market prices that they would be viewed as having been executed in error.[95] The Participants state that permitting trading to occur within Price Bands that are as much as 20% above or below the Reference Price without the protections of the clearly erroneous rules would be detrimental to investors and the public interest.[96]

Similar to the considerations around Price Bands at the Open noted above, the calibration of the Price Bands at the Close requires balancing dual objectives: preventing extraordinary volatility and facilitating price discovery. With respect to trading at the Close in particular, excessive Trading Pauses could impact the closing processes for securities in a manner that could harm price discovery at an important time of the trading day.[97]

By proposing to narrow the Price Bands at the Close for Tier 2 NMS Stocks with a Reference Price above $3.00, the Participants (and the market participants commenting in favor of the proposal) believe a better balance can be achieved in favor of preventing extreme price movements and erroneous trades from occurring at the Close. Narrower bands, the Participants state, will prevent the potential for 40% price swings at the Close, which is consistent with the Plan's stated goal of preventing extraordinary volatility in NMS stocks.[98] While their historical analysis shows that Trading Pauses could have tripled if narrower Price Bands as proposed were in place,[99] the Participants argue that the number of Trading Pauses were *de minimis* and that the adjustment in market participant quoting behavior to the narrower price bands would result in even fewer Trading Pauses than the historical analysis demonstrated.[100]

In approving this proposal to narrow the Price Bands at the Close for Tier 2 NMS Stocks with a Reference Price above $3.00, the Commission recognizes the dual objectives served by the Price Bands and believes that the Participants' proposal for narrower bands represents a different balance than that achieved by the current Plan. The Commission also notes that no commenters opposed the proposed rebalancing of the dual objectives of preventing extraordinary volatility and facilitating price discovery.

In approving this proposal, the Commission notes that the Participants have committed to analyzing the performance of narrower Price Bands at the Close in a future Annual Report. The Commission looks forward to reviewing that analysis. The Commission notes that an analysis of anticipated adjustments to quoting behavior prior to implementation of the proposed changes would not have been practical. As with the future analysis of the proposal concerning the narrower Price Bands at the Open, the Commission is particularly interested in whether the data demonstrate a change in quoting behavior by market participants, as argued by the Participants and commenters, and if there is no change in quoting behavior, whether the Participants continue to believe that the narrower Price Bands at the Close remain warranted. Furthermore, with respect to the analysis relating to the Close, the Commission is interested in an assessment of whether any increased Trading Pauses and Limit States negatively impacted closing auctions in affected securities.

For the reasons noted above, the Commission finds that the Eighteenth Amendment to the Plan is consistent with Section 11A of the Act[101] and Rule 608 thereunder.[102]

IV. Conclusion

It is therefore ordered, pursuant to Section 11A of the Act[103] and Rule 608 thereunder,[104] that the Eighteenth Amendment to the Plan (File No. 4–631) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[105]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07637 Filed 4–16–19; 8:45 am]

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[86] Plan Section V.A.1.

[87] *See* Notice, *supra* note 5, at 66476.

[88] *See id.*

[89] *See id.* at 66477.

[90] *See id.* at 66477–78.

[91] *See id.*

[92] *See id.*

[93] *See id.* at 66478.

[94] *See id.* at 66479.

[95] *See id.* at 66480.

[96] *See id.*

[97] *See* Plan Approval Order, *supra* note 10, at 33504 (commenters described the close as a critical part of the trading day and argued that exchanges could have inconsistent closing times as a result of a trading pause).

[98] *See* Notice, *supra* note 5, at 66477.

[99] *See supra* note 74.

[100] *See* Notice, *supra* note 5, at 66477.

[101] 15 U.S.C. 78k–1.

[102] 17 CFR 242.608.

[103] 15 U.S.C. 78k–1.

[104] 17 CFR 242.608.

[105] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85616; File No. SR–CBOE–2019–020]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot for Certain Options Market Rules That are Linked to the Equity Market Plan To Address Extraordinary Market Volatility

April 11, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 9, 2019, Cboe Exchange, Inc. (''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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. (''Cboe'' or the ''Exchange'') is filing with the Securities and Exchange Commission (the ''Commission'') a proposed rule change to extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility. The text of the proposed rule change is attached as Exhibit 5 [sic].

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 purpose of the proposed rule change is to extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility (the ''Limit Up-Limit Down Plan'' or the ''Plan''). This change is being proposed in connection with a proposed amendment to the Limit Up-Limit Down Plan that would allow the Plan to continue to operate on a permanent basis (''Amendment 18'').

In an attempt to address extraordinary market volatility in NMS Stock, and, in particular, events like the severe volatility on May 6, 2010, U.S. national securities exchanges and the Financial Industry Regulatory Authority, Inc. (collectively, ''Participants'') drafted the Plan pursuant to Rule 608 of Regulation NMS and under the Act.[3] On May 31, 2012, the Commission approved the Plan, as amended, on a one-year pilot basis.[4] Though the Plan was primarily designed for equity markets, the Exchange believed it would, indirectly, potentially impact the options markets as well. Thus, the Exchange has previously amended and adopted Rules 6.3A, 6.3B and Interpretation and Policy .01 to Rule 6.25 to ensure the option markets were not harmed as a result of the Plan's implementation and has implemented such rules on a pilot basis that has coincided with the pilot period for the Plan (the ''Options Pilots'').[5]

The Commission recently published an Amendment 18, which would allow the Plan to operate on a permanent, rather than pilot, basis.[6] In connection with this change, the Exchange proposes to amend the Options Pilots to expire at the close of business on October 18, 2019—*i.e.,* six months after the expiration of the current pilot period for the Plan. Specifically, the Exchange proposes to amend Exchange Rules 6.3A, 6.3B and Interpretation and Policy .01 to Rule 6.25 to untie the Options Pilot's effectiveness from that of the Plan and to extend the Options Pilot's effectiveness to the close of business on October 18, 2019. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs.

The Exchange does not propose any additional changes to Exchange Rules 6.3A, 6.3B or Interpretation and Policy .01 to Rule 6.25. The Exchange believes the benefits to market participants from the Options Pilots should continue on a limited six month pilot basis after Commission approves the Plan to operate on a permanent basis. Assuming the Plan is approved by the Commission to operate on a permanent, rather than pilot, basis the Exchange intends to assess whether additional changes should also be made to the Options Pilots. Extending the Options Pilots for an additional six months should provide the Exchange and other national securities exchanges additional time to consider further amendments to their rules in light of proposed Amendment 18.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[7] in general, and Section 6(b)(5) of the Act,[8] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning rules for options markets adopted to coincide with the Plan. The Exchange believes that extending the Options Pilots for an additional six months would help assure that the rules subject to such Pilots are either similarly made permanent, amended or removed, following additional discussion and analysis by the Exchange and other national securities exchanges. The proposed rule change would also help assure that such rules are not immediately eliminated, thus furthering

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011) (File No. 4–631).

[4] *See* Securities and Exchange Act Release No. 67091 (May 31, 2012) 77 FR 33498 (June 6, 2012).

[5] *See* Securities Exchange Act Release Nos. 69328 (April 5, 2013), 78 FR 21642 (April 11, 2013) (SR–CBOE–2013–030) (amending certain options rules to coincide with the pilot period for the Plan, including Rule 6.3A and Rule 6.25); and 68770 (January 30, 2013), 78 FR 8211 (February 5, 2013) (amending Rule 6.3B to coincide with the pilot period for the Plan).

[6] *See* Securities Exchange Act Release Nos. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (Amendment No. 18 Proposing Release).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the Options Pilots should continue to be in effect on a pilot basis while the Exchange and the other national securities exchanges consider and develop a permanent proposal for such rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of the Options Pilots while the Exchange and other national securities exchanges consider further amendments to these rules in light of proposed Amendment 18. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No comments were solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) [11] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [12] 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 so that the proposed rule change may become effective and operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the current Options Pilots to continue uninterrupted, without any changes, while the Exchange and the other national securities exchanges consider and develop a permanent proposal for Options Pilots. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (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–CBOE–2019–020 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2019–020. 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–2019–020 and should be submitted on or before May 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07622 Filed 4–16–19; 8:45 am]

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[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85635; File No. SR–BOX–2019–13]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot to the Close of Business on October 18, 2019, for Exchange Rule IM–7170–1, That Is Linked to the Equity Market Plan To Address Extraordinary Market Volatility (the "Limit Up-Limit Down Plan" or the "Plan")

April 12, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 11, 2019, BOX Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the 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 extend the pilot to the close of business on October 18, 2019, for Exchange Rule IM–7170–1, that is linked to the equity market Plan to Address Extraordinary Market Volatility (the ''Limit Up-Limit Down Plan'' or the ''Plan''). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *http://boxoptions.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 the proposed rule change is to amend Rule IM–7170–1 to extend the pilot to the close of business on October 18, 2019. This change is being proposed in connection with a proposed amendment to the Limit Up-Limit Down Plan that would allow the Plan to continue to operate on a permanent basis (''Amendment 18'').

In an attempt to address extraordinary market volatility in NMS Stock, and, in particular, events like the severe volatility on May 6, 2010, U.S. national securities exchanges and the Financial Industry Regulatory Authority, Inc. (collectively, ''Participants'') drafted the Plan pursuant to Rule 608 of Regulation NMS and under the Act.[3] On May 31, 2012, the Commission approved the Plan, as amended, on a one-year pilot basis.[4] Though the Plan was primarily designed for equity markets, the Exchange believed it would, indirectly, potentially impact the options markets as well. Thus, the Exchange has previously adopted and amended Rule IM–7170–1 to ensure the option markets were not harmed as a result of the Plan's implementation and has implemented the rule on a pilot basis that has coincided with the pilot period for the Plan.[5] Rule IM–7170–1 was adopted to assist the Exchange in managing effects stemming from the implementation of the Plan.

The Commission recently published an Amendment 18, which would allow the Plan to operate on a permanent, rather than pilot basis.[6] In connection with this change, the Exchange proposes to amend the Options Pilots to expire at the close of business on October 18, 2019—*i.e.,* six months after the expiration of the current pilot period for the Plan. Specifically, the Exchange proposes to amend Exchange Rule IM–7170–1 to untie the Options Pilot's effectiveness from that of the Plan and to extend the Options Pilot's effectiveness to the close of business on October 18, 2019. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs, the substance of which are identical to the proposal.

The Exchange does not propose any additional changes to Exchange Rule IM–7170–1. The Exchange believes the benefits to market participants from the Options Pilots should continue on a limited six month pilot basis after Commission approves the Plan to operate on a permanent basis. Assuming the Plan is approved by the Commission to operate on a permanent, rather than pilot basis, the Exchange intends to assess whether additional changes should also be made to the Options Pilots. Extending the Options Pilots for an additional six months should provide the Exchange and other national securities exchanges additional time to consider further amendments to their rules in light of proposed Amendment 18.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[7] in general, and Section 6(b)(5) of the Act,[8] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning rules for options markets adopted to coincide with the Plan. The Exchange believes that extending the Options Pilots for an additional six months would help assure that the rules subject to such Pilots are either similarly made permanent, amended or removed, following additional discussion and analysis by the Exchange and other national securities exchanges. The proposed rule change would also help assure that such rules are not immediately eliminated, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the Options Pilots should continue to be in effect on a pilot basis while the Exchange and the other national securities exchanges consider and develop a permanent proposal for such rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of the Options Pilots while the Exchange and other national securities exchanges consider further amendments to these rules in light of proposed Amendment 18. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs, the substance of which are identical to this proposal.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011)(File No. 4–631).

[4] *See* Securities and Exchange Act Release No. 67091 (May 31, 2012) 77 FR 33498 (June 6, 2012).

[5] *See* Securities Exchange Act Release Nos. 34–76233 (October 22, 2015), 80 FR 66087 (October 28, 2015) (SR–BOX–2015–34) (proposing to extend pilot program to coincide with the pilot period for the Plan).

[6] *See* Securities Exchange Act Release Nos. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (Amendment No. 18 Proposing Release).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues. As such, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) [11] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [12] 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 so that the proposed rule change may become effective and operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the current Options Pilots to continue uninterrupted, without any changes, while the Exchange and the other national securities exchanges consider and develop a permanent proposal for Options Pilots. For this reason, the Commission hereby waives the 30-day operative delay requirement and designates the proposed rule change as operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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–BOX–2019–13 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2019–13. 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–BOX–2019–13 and should be submitted on or before May 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07704 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] 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).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85634; File No. SR–CboeEDGX–2019–022]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot for Certain Options Market Rules That Are Linked to the Equity Market Plan To Address Extraordinary Market Volatility

April 12, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 9, 2019, Cboe EDGX Exchange, Inc. (''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. (''EDGX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (the ''Commission'') a proposed rule change to extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Address Extraordinary Market Volatility. The text of the proposed rule change is attached as Exhibit 5. [sic]

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 the proposed rule change is to extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility (the ''Limit Up-Limit Down Plan'' or the ''Plan''). This change is being proposed in connection with a proposed amendment to the Limit Up-Limit Down Plan that would allow the Plan to continue to operate on a permanent basis (''Amendment 18'').

In an attempt to address extraordinary market volatility in NMS Stock, and, in particular, events like the severe volatility on May 6, 2010, U.S. national securities exchanges and the Financial Industry Regulatory Authority, Inc. (collectively, ''Participants'') drafted the Plan pursuant to Rule 608 of Regulation NMS and under the Act.[3] On May 31, 2012, the Commission approved the Plan, as amended, on a one-year pilot basis.[4] Though the Plan was primarily designed for equity markets, the Exchange believed it would, indirectly, potentially impact the options markets as well. Thus, the Exchange has previously adopted Interpretation and Policy .01 to Rule 20.6 to ensure the option markets were not harmed as a result of the Plan's implementation and has implemented such rule on a pilot basis that has coincided with the pilot period for the Plan (the ''Options Pilot'').[5]

The Commission recently published an Amendment 18, which would allow the Plan to operate on a permanent, rather than pilot, basis.[6] In connection with this change, the Exchange proposes to amend the Options Pilot to expire at the close of business on October 18, 2019—*i.e.,* six months after the expiration of the current pilot period for the Plan. Specifically, the Exchange proposes to amend Interpretation and Policy .01 to Rule 20.6 to untie the Options Pilot's effectiveness from that of the Plan and to extend the Options Pilot's effectiveness to the close of business on October 18, 2019. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs, the substance of which are identical to the proposal.

The Exchange does not propose any additional changes to Interpretation and Policy .01 to Rule 20.6. The Exchange believes the benefits to market participants from the Options Pilot should continue on a limited six month pilot basis after Commission approves the Plan to operate on a permanent basis. Assuming the Plan is approved by the Commission to operate on a permanent, rather than pilot, basis the Exchange intends to assess whether additional changes should also be made to the Options Pilot. Extending the Options Pilot for an additional six months should provide the Exchange and other national securities exchanges additional time to consider further amendments to their rules in light of proposed Amendment 18.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[7] in general, and Section 6(b)(5) of the Act,[8] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning rules for options markets adopted to coincide with the Plan. The Exchange believes that extending the Options Pilot for an additional six months would help assure that the rules subject to such Pilot are either similarly made permanent, amended or removed, following additional discussion and analysis by the Exchange and other national securities exchanges. The proposed rule change would also help assure that such rules are not immediately eliminated, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the Options Pilot should continue to be in effect on a pilot basis while the Exchange and the other national securities exchanges consider and develop a permanent proposal for such rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of the Options Pilot while the Exchange and other national securities exchanges consider further amendments to these rules in light of proposed Amendment 18. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs, the substance of which are identical to this proposal. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No comments were solicited or received 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

[3] *See* Securities Exchange Act Release No. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011)(File No. 4–631).

[4] *See* Securities and Exchange Act Release No. 67091 (May 31, 2012) 77 FR 33498 (June 6, 2012).

[5] *See* Securities Exchange Act Release No. 76230 (October 22, 2015), 80 FR 66094 (October 28, 2015) (SR–EDGX–2015–49) (amending Interpretation and Policy .01 to Rule 20.6 to coincide with the pilot period for the Plan).

[6] *See* Securities Exchange Act Release Nos. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (Amendment No. 18 Proposing Release).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) [11] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [12] 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 so that the proposed rule change may become effective and operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the current the Options Pilot to continue uninterrupted, without any changes, while the Exchange and the other national securities exchanges consider and develop a permanent proposal for the Options Pilot. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (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–CboeEDGX–2019–022 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGX–2019–022. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGX–2019–022 and should be submitted on or before May 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07703 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6). 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.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85605; File No. SR–ISE–2019–10]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot for Certain Options Market Rules That Are Linked to the Equity Market Plan To Address Extraordinary Market Volatility

April 11, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 8, 2019, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility.

The Exchange requests that the Commission waive the 30-day operative delay period contained in Exchange Act Rule 19b–4(f)(6)(iii).[3]

The text of the proposed rule change is available on the Exchange's website at *http://ise.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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6)(iii).

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 the proposed rule change is to extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility (the ''Limit Up-Limit Down Plan'' or the ''Plan''). This change is being proposed in connection with a proposed amendment to the Limit Up-Limit Down Plan that would allow the Plan to continue to operate on a permanent basis (''Amendment 18'').

In an attempt to address extraordinary market volatility in NMS Stock, and, in particular, events like the severe volatility on May 6, 2010, U.S. national securities exchanges and the Financial Industry Regulatory Authority, Inc. (collectively, ''Participants'') drafted the Plan pursuant to Rule 608 of Regulation NMS and under the Act.[4] On May 31, 2012, the Commission approved the Plan, as amended, on a one-year pilot basis.[5] Though the Plan was primarily designed for equity markets, the Exchange believed it would, indirectly, potentially impact the options markets as well. Thus, the Exchange has previously amended and adopted Rules 702(d) and Supplementary Material .01 to Rule 720 to ensure the option markets were not harmed as a result of the Plan's implementation and has implemented such rules on a pilot basis that has coincided with the pilot period for the Plan (the ''Options Pilots'').[6]

The Commission recently published an Amendment 18, which would allow the Plan to operate on a permanent, rather than pilot, basis.[7] In connection with this change, the Exchange proposes to amend the Options Pilots to expire at the close of business on October 18, 2019—*i.e.,* six months after the expiration of the current pilot period for the Plan. Specifically, the Exchange proposes to amend Exchange Rules 702(d) and Supplementary Material .01 to Rule 720 to untie the Options Pilot's effectiveness from that of the Plan and to extend the Options Pilot's effectiveness to the close of business on October 18, 2019. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs, the substance of which are identical to the proposal.

The Exchange does not propose any additional changes to Exchange Rules 702 and 720. The Exchange believes the benefits to market participants from the Options Pilots should continue on a limited six month pilot basis after Commission approves the Plan to operate on a permanent basis. Assuming the Plan is approved by the Commission to operate on a permanent, rather than pilot, basis the Exchange intends to assess whether additional changes should also be made to the Options Pilots. Extending the Options Pilots for an additional six months should provide the Exchange and other national securities exchanges additional time to consider further amendments to their rules in light of proposed Amendment 18.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[8] in general, and Section 6(b)(5) of the Act,[9] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning rules for options markets adopted to coincide with the Plan. The Exchange believes that extending the Options Pilots for an additional six months would help assure that the rules subject to such Pilots are either similarly made permanent, amended or removed, following additional discussion and analysis by the Exchange and other national securities exchanges. The proposed rule change would also help assure that such rules are not immediately eliminated, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the Options Pilots should continue to be in effect on a pilot basis while the Exchange and the other national securities exchanges consider and develop a permanent proposal for such rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of the Options Pilots while the Exchange and other national securities exchanges consider further amendments to these rules in light of proposed Amendment 18. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs, the substance of which are identical to this proposal. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6) [12] normally does not become operative prior to 30 days after the date of the filing. However, Rule

[4] *See* Securities Exchange Act Release No. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011) (File No. 4–631).

[5] *See* Securities and Exchange Act Release No. 67091 (May 31, 2012) 77 FR 33498 (June 6, 2012).

[6] *See* Securities Exchange Act Release Nos. 69329 (April 5, 2013), 78 FR 21657 (April 11, 2014) (SR–ISE–2013–22) (Approval Order); and 69110 (March 11, 2013), 78 FR 16726 (March 18, 2013) (SR–ISE–2013–22) (amending Rule 702 and Supplementary .01 to Rule 720 to coincide with the pilot period for the Plan) [sic].

[7] *See* Securities Exchange Act Release Nos. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (Amendment No. 18 Proposing Release).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 17 CFR 240.19b–4(f)(6).

19b–4(f)(6)(iii) [13] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become effective and operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the current Options Pilots to continue uninterrupted, without any changes, while the Exchange and the other national securities exchanges consider and develop a permanent proposal for the Options Pilots. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ISE–2019–10 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–ISE–2019–10. 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–ISE–2019–10 and should be submitted on or before May 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07630 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85631; File No. SR–NASDAQ–2019–026]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot to the Close of Business on October 18, 2019

April 11, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 5, 2019, 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 extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility (the ''Limit Up-Limit Down Plan'' or the ''Plan''). This change is being proposed in connection with a proposed amendment to the Limit Up-Limit Down Plan that would allow the Plan to continue to operate on a permanent basis (''Amendment 18'').

In an attempt to address extraordinary market volatility in NMS Stock, and, in particular, events like the severe volatility on May 6, 2010, U.S. national securities exchanges and the Financial Industry Regulatory Authority, Inc. (collectively, ''Participants'') drafted the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Plan pursuant to Rule 608 of Regulation NMS and under the Act.[3] On May 31, 2012, the Commission approved the Plan, as amended, on a one-year pilot basis.[4] Though the Plan was primarily designed for equity markets, the Exchange believed it would, indirectly, potentially impact the options markets as well. Thus, the Exchange has previously amended and adopted Chapter V, Section 3(d) to ensure the option markets were not harmed as a result of the Plan's implementation and has implemented such rules on a pilot basis that has coincided with the pilot period for the Plan (the ''Options Pilots'').[5]

The Commission recently published an Amendment 18, which would allow the Plan to operate on a permanent, rather than pilot, basis.[6] In connection with this change, the Exchange proposes to amend the Options Pilots to expire at the close of business on October 18, 2019—*i.e.,* six months after the expiration of the current pilot period for the Plan. Specifically, the Exchange proposes to amend Exchange Rules at Chapter V, Section 3(d) to untie the Options Pilot's effectiveness from that of the Plan and to extend the Options Pilot's effectiveness to the close of business on October 18, 2019. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs, the substance of which are identical to the proposal.

The Exchange does not propose any additional changes to Exchange Rules at Chapter V, Section 3. The Exchange believes the benefits to market participants from the Options Pilots should continue on a limited six month pilot basis after Commission approves the Plan to operate on a permanent basis. Assuming the Plan is approved by the Commission to operate on a permanent, rather than pilot, basis the Exchange intends to assess whether additional changes should also be made to the Options Pilots. Extending the Options Pilots for an additional six months should provide the Exchange and other national securities exchanges additional time to consider further amendments to their rules in light of proposed Amendment 18.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[7] in general, and Section 6(b)(5) of the Act,[8] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning rules for options markets adopted to coincide with the Plan. The Exchange believes that extending the Options Pilots for an additional six months would help assure that the rules subject to such Pilots are either similarly made permanent, amended or removed, following additional discussion and analysis by the Exchange and other national securities exchanges. The proposed rule change would also help assure that such rules are not immediately eliminated, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the Options Pilots should continue to be in effect on a pilot basis while the Exchange and the other national securities exchanges consider and develop a permanent proposal for such rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of the Options Pilots while the Exchange and other national securities exchanges consider further amendments to these rules in light of proposed Amendment 18. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs, the substance of which are identical to this proposal. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

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 Act[9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[12] 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 so that the proposed rule change may become effective and operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the current Options Pilots to continue uninterrupted, without any changes, while the Exchange and the other national securities exchanges consider and develop a permanent proposal for Options Pilots. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the

[3] *See* Securities Exchange Act Release No. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011) (File No. 4–631).

[4] *See* Securities and Exchange Act Release No. 67091 (May 31, 2012) 77 FR 33498 (June 6, 2012).

[5] *See* Securities Exchange Act Release No. 69341 (April 8, 2013), 78 FR 21996 (April 12, 2013) (SR–NASDAQ–2013–048) (amending Chapter V, Section (d)(iv) to coincide with the pilot period for the Plan).

[6] *See* Securities Exchange Act Release Nos. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (Amendment No. 18 Proposing Release).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6). 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.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–NASDAQ–2019–026 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–2019–026. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2019–026 and should be submitted on or before May 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07612 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85628; File No. SR–NYSEAMER–2018–39]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing of Amendment No. 2 to Proposed Rule Change To Allow Flexible Exchange Equity Options To Be Cash Settled Where the Underlying Security Is a Specified Exchange-Traded Fund

April 11, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 20, 2018, NYSE American LLC (''NYSE American '' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The proposed rule change was published for comment in the **Federal Register** on October 11, 2018.[3] On November 19, 2018, pursuant to Section 19(b(2) of the Act,[4] the Commission designated a longer period within which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] The Commission received one comment letter on the proposed rule change.[6]

On December 19, 2018, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act[7] to determine whether to approve or disapprove the proposed rule change.[8] On March 11, 2019, the Exchange filed Amendment No. 1 to the proposed rule change. On March 25, 2019, the Exchange withdrew Amendment No. 1 and filed Amendment No. 2 to the proposed rule change, which superseded and replaced the proposed rule change in its entirety. On April 5, 2019, the Commission extended the time period for approving or disapproving the proposal for an additional 60 days until June 8, 2019.[9] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 2, from interested persons.[10]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend certain rules related to Flexible Exchange (''FLEX'') Options. This Amendment No. 2 supersedes the original filing and the Partial Amendment No. 1 in its entirety.[11] 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.

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[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 84364 (October 4, 2018), 83 FR 51535 (October 11, 2018) (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 84616 (November 19, 2018), 83 FR 60519 (November 26, 2018). The Commission designated January 9, 2019, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] *See* Letter to Brent J. Fields, Secretary, Commission, from Samara Cohen, Head of ETF Global Markets, BlackRock, dated November 27, 2018.

[7] 15 U.S.C. 78s(b)(2)(B).

[8] *See* Securities Exchange Act Release No. 84870 (December 19, 2018), 83 FR 66779 (December 27, 2018) (''Order Instituting Proceedings'').

[9] *See* Securities Exchange Act Release No. 85531 (April 5, 2019).

[10] In Amendment No. 2, the Exchange revised the proposal to limit the ETFs that could serve as an underlying security for cash-settled FLEX Equity Options to 25 enumerated ETFs, rather than all ETFs included in the Option Penny Pilot. In addition, Amendment No. 2 amended the proposal to, among other things, (1) describe characteristics of ETFs, including the calculation of net asset value, the creation and redemption mechanism, and their reliance on arbitrage; (2) provide trading data related to the 25 specified ETFs proposed to serve as the allowable underlying securities for cash-settled FLEX Equity Options; (3) describe the requirement in Rule 906G(b) that members or member organizations may be required to provide a report of positions on the same side of the market in excess of the level established as the position limit for non-FLEX Equity options of the same class; (4) describe in more detail existing surveillance procedures relevant to cash-settled FLEX Equity Options on the specified ETFs; and (5) make additional arguments about why the Exchange believes that cash settlement would be appropriate for such options.

[11] The original proposal was filed by the Exchange on September 18, 2018. *See* Securities Exchange Act Release No. 84364 (October 4, 2018), 83 FR 51535 (October 11, 2018). The Exchange filed Partial Amendment No. 1 on March 11, 2019 and withdrew it on March 25, 2019.

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

FLEX Options are customized equity or index contracts that allow investors to tailor contract terms for exchange-listed equity and index options. The Exchange seeks to amend NYSE American Rule 903G(c) to allow for cash settlement for certain FLEX Equity Options.[12] As proposed, FLEX Equity Options where the underlying security is one of 25 enumerated Exchange-Traded Funds (''ETFs'') would be capable of being settled by physical delivery of the underlying ETF or by delivery in cash. Currently, all FLEX Equity Options are settled by physical delivery of the underlying security.[13] All FLEX Index Options, however, are currently settled by delivery in cash.[14]

To effectuate this change, the Exchange proposes new paragraph (c)(3)(ii) to Rule 903G, which would provide that the exercise settlement for a FLEX ETF Option with an underlying security listed in proposed Commentary .02 would be by physical delivery of the underlying security or by delivery in cash.[15] The Exchange further proposes new Commentary .02, which would provide the name and symbol of each of 25 ETFs listed in the table below.[16] The Exchange believes it is appropriate to introduce cash-settlement as an alternative to this group of equity securities because ETFs generally have increasingly become a major part of investors' portfolio. The vast proliferation of ETFs has greatly expanded the ability of investors to take advantage of many unique opportunities to hedge their portfolio and manage risk. Investors can take long and/or short positions—as well as in many cases, leveraged long or short positions—in baskets of securities whose components can include foreign and domestic stock indexes, currencies, commodities and bonds. Over the years, ETFs have also attracted a great deal of options trading.

As described more fully below, the Exchange believes that the deep liquidity and robust trading activity in the 25 ETFs proposed to be eligible for cash-settled FLEX ETF Options would mitigate against concerns that their settlement value would be susceptible to manipulation.

Characteristics of ETFs

ETFs are funds that have their value derived from assets owned. The net asset value (''NAV'') of an ETF is a daily calculation that is based off the most recent closing prices of the assets in the fund and an actual accounting of the total cash in the fund at the time of calculation. The NAV of an ETF is calculated by taking the sum of the assets in the fund, including any securities and cash, subtracting out any liabilities, and dividing that by the number of shares outstanding.

Additionally, each ETF is subject to a creation and redemption mechanism to ensure the price of the ETF does not fluctuate too far away from its NAV—which mechanisms reduce the potential for manipulative activity. Each business day, ETFs are required to make publicly available a portfolio composition file that describes the makeup of their creation and redemption ''baskets'' (*i.e.,* a specific list of names and quantities of securities or other assets designed to track the performance of the portfolio as a whole). ETF shares are created when an Authorized Participant, typically a market maker or other large institutional investor, deposits the daily creation basket or cash with the ETF issuer. In return for the creation basket or cash (or both), the ETF issues to the Authorized Participant a ''creation unit'' that consists of a specified number of ETF shares. For instance, IWM is designed to track the performance of the Russell 2000 Index. An Authorized Participant will purchase all the Russell 2000 constituent securities in the exact same weight as the index prescribes, then deliver those shares to the ETF issuer. In exchange, the ETF issuer gives the Authorized Participant a block of equally valued ETF shares, on a one-for-one fair value basis. This process can also work in reverse. A redemption is achieved when the Authorized Participant accumulates a sufficient number of shares of the ETF to constitute a creation unit and then exchanges these ETF shares with the ETF issuer, thereby decreasing the supply of ETF shares in the market.

The principal, and perhaps most important, feature of ETFs is their reliance on an ''arbitrage function'' performed by market participants that influences the supply and demand of ETF shares and, thus, trading prices relative to NAV. As noted above, new ETF shares can be created and existing shares redeemed based on investor demand; thus, ETF supply is open-ended. This arbitrage function helps to keep an ETF's price in line with the value of its underlying portfolio, *i.e.,* it minimizes deviation from NAV. Generally, the higher the liquidity and trading volume of an ETF, the more likely the price of the ETF will not deviate from the value of its underlying portfolio and such ETFs are less susceptible to price manipulation.

Trading Data for the 25 ETFs Proposed for Potential Cash Settlement

As illustrated in the table below, the average deviation of the closing price of the 25 ETFs from its NAV, on a percentage basis, is less than 1%. The close proximity between each ETF's NAV and its closing price illustrates how closely the 25 ETFs selected by the Exchange are tethered to values beyond buying and selling at the close. More specifically, the ETFs that underlie options subject to this proposal are highly liquid, and are based on a broad set of highly liquid securities. The table below presents descriptive statistics for the 25 ETFs selected by the Exchange, as of December 31, 2018, and includes, for each ETF: The 20-day average trading volume of the underlying ETF (in shares and dollar value), the assets under management, the average deviation from net asset value, and the average daily volume of options contracts traded overlying each ETF.

[12] A ''FLEX Equity Option'' is an option on a specified underlying equity security that is subject to the rules of Section 15. *See* NYSE American Rule 900G(b)(10).

[13] *See* Rule 903G(c)(3)(i).

[14] *See* Rule 903G(b)(2) and (3).

[15] *See* proposed Rule 903G(c)(3)(ii). The Exchange also proposes a non-substantive amendment to Rule 903G to renumber current Rule 903G(c)(3)(ii) as new Rule 903G(c)(3)(iii).

[16] *See* proposed Rule 903G, Commentary .02.

ETF	ETF ticker	20-day average trading volume (shares)	20-day average trading volume ($)	Total fund assets under management ($)	Average deviation from net asset value (NAV) (percent)	Options average daily volume
SPDR S&P 500 ETF	SPY	160,041,302	$40,948,098,000	$240,106.44	0.02	4,611,460
Invesco Nasdaq 100 ETF	QQQ	71,613,353	11,310,618,350	61,145.94	0.03	1,108,432
iShares MSCI Emerging Markets ETF.	EEM	111,792,871	4,439,674,650	29,314.21	0.54	585,794
iShares Russell 2000 ETF	IWM	35,158,745	4,861,054,750	39,907.42	0.41	510,309
iShares iBoxx $ High Yield Corporate Bond ETF.	HYG	27,488,196	2,250,963,000	13,202.49	0.23	345,034
SPDR S&P Oil & Gas Exploration & Production ETF.	XOP	27,040,448	784,296,775	2,406.98	0.07	223,594
iShares China Large-Cap ETF	FXI	41,125,843	1,668,342,775	5,671.99	0.70	216,003
Financial Select Sector SPDR ETF	XLF	90,744,549	2,206,780,250	22,899.77	0.04	209,185
iShares MSCI EAFE ETF	EFA	61,226,608	3,656,868,050	62,279.02	0.28	188,666
iShares MSCI Brazil ETF	EWZ	26,957,238	1,032,776,750	7,694.70	0.65	180,654
iShares 20+ Year Treasury Bond ETF.	TLT	11,423,906	1,364,567,990	8,761.36	0.11	123,591
SPDR S&P Regional Banking ETF	KRE	12,780,929	625,733,560	2,926.33	0.05	95,607
VanEck Vectors Gold Miners ETF	GDX	61,166,478	1,248,025,595	10,575.69	0.16	90,602
SPDR Dow Jones Industrial Average ETF.	DIA	6,985,256	1,660,420,135	19,700.41	0.02	83,202
SPDR S&P Biotech ETF	XBI	7,488,285	554,592,040	3,608.90	0.10	62,290
Energy Select Sector SPDR ETF	XLE	24,766,279	1,502,959,710	13,431.16	0.04	57,398
Utilities Select Sector SPDR ETF	XLU	24,430,265	1,339,179,575	8,383.96	0.04	50,759
Consumer Staples Select Sector SPDR ETF.	XLP	27,738,596	1,469,257,995	9,572.95	0.04	28,699
iShares U.S. Real Estate ETF	IYR	11,283,934	881,610,765	3,434.70	0.07	26,722
Technology Select Sector SPDR ETF	XLK	22,235,286	1,407,316,770	17,305.90	0.03	21,243
Industrial Select Sector SPDR ETF	XLI	19,012,293	1,269,902,155	9,689.46	0.04	20,789
Healthcare Select Sector ETF	XLV	17,397,161	1,529,979,575	17,987.48	0.04	20,183
iShares MSCI Japan ETF	EWJ	17,714,960	921,963,790	15,253.86	0.46	13,855
Materials Select Sector SPDR ETF	XLB	12,685,383	646,247,535	3,634.08	0.04	11,552
VanEck Vectors Junior Gold Miners ETF.	GDXJ	14,662,291	419,654,120	4,273.40	0.23	10,868

As illustrated in the table above, each of the 25 ETFs is actively traded and highly liquid and thus not readily susceptible to manipulation for the following reasons:

- First, each has a 20-day ADV of at least 7 million shares which indicates substantial liquidity present in the trading of these securities.
- Second, each ETF has a notional value over that 20-day period of at least $400 million which implies that the ETF has significant depth and breadth of market participants providing liquidity.
- Third, each ETF has a minimum of $2 billion of assets under management which demonstrates broad ownership as well as depth and breadth of investor interest.
- Finally, each ETF has an ADV of at least 10,000 options contracts which indicates that there is significant quoting and trading interest in the options overlying each ETF.

The Exchange believes that this data indicates that permitting cash settlement as a FLEX term for the 25 ETFs selected by the Exchange would broaden the base of investors that use FLEX Options to manage their trading and investment risk, including investors that currently trade in the OTC market for customized options, where settlement restrictions do not apply. Moreover, introducing cash settlement as a FLEX term for these 25 ETFs would be appropriate because the data above indicates that these are some of the most actively traded and liquid ETFs and are therefore not readily susceptible to manipulation.

Today, all ETF options are settled physically, *i.e.,* upon exercise, shares of the underlying ETF must be assumed or delivered. Physical settlement possesses certain risks with respect to volatility and movement of the underlying security at expiration that market participants may need to hedge against. Cash settlement may be preferable to physical delivery in some circumstances as it does not present the same risk. If an issue with the delivery of the underlying security arises, it may become more expensive (and time consuming) to reverse the delivery because the price of the underlying security would almost certainly have changed. Reversing a cash payment, on the other hand, would not involve any such issue because reversing a cash delivery would simply involve the exchange of cash. Additionally, with physical settlement, market participants that have a need to generate cash would have to sell the underlying security while incurring the costs associated with liquidating their position in the underlying security as well as the risk of an adverse movement in the price of the underlying security. The Exchange notes that cash settlement for options is not a unique feature and other options exchanges currently trade cash-settled options.[17]

The Exchange understands that there are concerns that have been raised in the past regarding cash-settled equity options. The Exchange seeks to allay such concerns by proposing to adopt cash-settlement as an alternative to

[17] *See e.g.,* PHLX FX Options traded on Nasdaq PHLX and S&P 500® Index Options traded on Cboe Options Exchange. More recently, the Commission approved, on a pilot basis, the listing and trading of RealDay™ Options on the BOX Options Exchange LLC. *See* Securities Exchange Act Release No. 79936 (February 2, 2017), 82 FR 9886 (February 8, 2017) (''RealDay Pilot Program''). The RealDay Pilot Program has been extended until February 2, 2019. *See* Securities Exchange Act Release No. 82414 (December 28, 2017), 83 FR 577 (January 4, 2018) (SR–BOX–2017–38).

ETFs only, and more specifically, to a narrow universe of 25 ETFs. As a general matter, all index options traded today are cash-settled and derive their value from a disseminated index price. Similarly, ETFs typically have their values linked to a disseminated index price. As noted above, the Exchange seeks to limit cash-settlement to 25 of the most liquid and actively traded ETFs, as evidenced by the data underlying the 25 ETFs in the table above.

With respect to position limits, cash-settled FLEX ETF Options would be subject to the position limits set forth in Rule 906G. Accordingly, the Exchange would establish position limits for cash-settled FLEX ETF Options that are the same as non-cash-settled FLEX ETF Options. Pursuant to Rule 906G(b), each member or member organization (other than a Specialist or Floor Market Maker) that maintains a position on the same side of the market in excess of the level established pursuant to Rule 904 for Non-FLEX Equity options of the same class on behalf of its own account or for the account of a customer is required to report to the Exchange information on the FLEX Equity option position, positions in any related instrument, the purpose or strategy for the position and the collateral used by the account.

The Exchange understands that FLEX ETF Options are currently traded in the over-the-counter (''OTC'') market by a variety of market participants, *e.g.,* hedge funds, proprietary trading firms, and pension funds, to name a few. The Exchange believes there is room for significant growth if a comparable product were introduced for trading on a regulated market. The Exchange expects that users of these OTC products would be among the primary users of exchange-traded cash-settled FLEX ETF Options. The Exchange also believes that the trading of cash-settled FLEX ETF Options would allow these same market participants to better manage the risk associated with the volatility of underlying ETF positions given the enhanced liquidity that an exchange-traded product would bring.

Cash-settled FLEX ETF Options traded on the Exchange would have three important advantages over the contracts that are traded in the OTC market. First, as a result of greater standardization of contract terms, exchange-traded contracts should develop more liquidity. Second, counter-party credit risk would be mitigated by the fact that the contracts are issued and guaranteed by The Options Clearing Corporation (''OCC''). Finally, the price discovery and dissemination provided by the Exchange and its members would lead to more transparent markets. The Exchange believes that its ability to offer cash-settled FLEX ETF Options would aid it in competing with the OTC market and at the same time expand the universe of products available to interested market participants. The Exchange believes that an exchange-traded alternative may provide a useful risk management and trading vehicle for market participants and their customers.

The Exchange has confirmed with the OCC that OCC can support the clearance and settlement of cash-settled FLEX ETF Options. The Exchange has analyzed its capacity and represents that it believes the Exchange and OPRA have the necessary systems capacity to handle the additional traffic associated with the listing of cash-settled FLEX ETF Options. The Exchange believes any additional traffic that would be generated from the introduction of cash-settled FLEX ETF Options would be manageable. The Exchange believes ATP Holders will not have a capacity issue as a result of this proposed rule change. The Exchange also represents that it does not believe this proposed rule change will cause fragmentation of liquidity. The Exchange will monitor the trading volume associated with the additional options series listed as a result of this proposed rule change and the effect (if any) of these additional series on market fragmentation and on the capacity of the Exchange's automated systems.

The Exchange has an adequate surveillance program in place for cash-settled FLEX ETF Options and intends to apply the same program procedures that it applies to the Exchange's other options products. FLEX options products and their respective symbols are integrated into the Exchange's existing surveillance system architecture and are thus subject to the relevant surveillance processes. As a result, the Exchange believes it would be able to effectively police the trading of cash-settled FLEX ETF Options using means that include its surveillance for manipulation. The Exchange believes that manipulating the settlement price of cash-settled FLEX ETF Options would be difficult based on the size of the market for the 25 ETFs that are the subject of this proposed rule change. Additionally, the Exchange notes that each cash-settled FLEX ETF Option that would be subject to this proposed rule change is sufficiently active so as to alleviate concerns about potential manipulative activity. Further, the vast liquidity of the 25 ETF options as well as the underlying equities markets ensures a multitude of market participants at any given time. Given the high level of participation among market participants that enter quotes and/or orders in these ETF options, the Exchange believes it would be very difficult for a single participant to alter the prices of each of the underlying securities of an ETF in any significant way without exposing the would-be manipulator to regulatory scrutiny. The Exchange further believes any attempt to manipulate the prices of the underlying securities of an ETF would also be cost prohibitive.

With respect to regulatory scrutiny, the Exchange further believes its existing surveillance technologies and procedures adequately address potential concerns regarding possible manipulation of the settlement value at or near the close of the market. The Exchange notes that the regulatory program operated by and overseen by NYSE Regulation includes cross-market surveillance designed to identify manipulative and other improper trading, including spoofing, algorithm gaming, marking the close and open, as well as more general, abusive behavior related to front running, wash sales, quoting/routing, and Reg SHO violations, that may occur on the Exchange and other markets. These cross-market patterns incorporate relevant data from various markets beyond the Exchange and its affiliates, including data from NYSE Arca, Inc. and from markets not affiliated with the Exchange. The Exchange represents that its existing trading surveillances are adequate to monitor the trading in the underlying ETF and subsequent trading of options on those ETFs on the Exchange.[18]

Additionally, for options, the Exchange utilizes an array of patterns that monitor manipulation of options, or manipulation of equity securities (regardless of venue) for the purpose of impacting options prices on the Exchange (*i.e.,* mini-manipulation strategies). That surveillance coverage is initiated once options begin trading on the Exchange. Accordingly, the Exchange believes that the cross-market surveillance performed by the Exchange or FINRA on behalf of the Exchange, coupled with NYSE Regulation's own monitoring for violative activity on the Exchange comprise a comprehensive surveillance program that is adequate to

[18] Such surveillance procedures generally focus on detecting securities trading subject to opening price manipulation, closing price manipulation, layering, spoofing or other unlawful activity impacting an underlying security, the option, or both. The Exchange has price movement alerts, unusual market activity and order book alerts active for all trading symbols.

monitor for manipulation of the underlying security and overlying option. Furthermore, the Exchange believes that the existing surveillance procedures at the Exchange are capable of properly identifying unusual and/or illegal trading activity, which the Exchange would utilize to surveil for aberrant trading in cash-settled FLEX ETF Options. Finally, the Exchange notes that routine oversight inspections of the Exchange's regulatory programs by the Commission have not uncovered any material inconsistencies or shortcomings in the manner in which the Exchange's market surveillance is conducted.

The Exchange does not believe that allowing cash settlement as a contract term would render the marketplace for equity options more susceptible to manipulative practices. In addition to the surveillance procedures and processes described above, improvements in audit trails, recordkeeping practices, and inter-exchange cooperation over the last two decades have greatly increased the Exchange's ability to detect and punish attempted manipulative activities. The Exchange therefore believes that the decision of whether or not to allow cash settlement as a contract term for the proposed 25 FLEX ETF Options should rest on the ability of the Exchange to monitor and detect manipulative activity, not on any perceived threat of increased attempted manipulative activity.

Additionally, the Exchange is a member of the Intermarket Surveillance Group (''ISG'') under the Intermarket Surveillance Group Agreement dated June 20, 1994. The ISG members work together to coordinate surveillance and investigative information sharing in the stock and options markets. For surveillance purposes, the Exchange would therefore have access to information regarding trading activity in the pertinent underlying securities.

The proposed rule change is designed to allow investors seeking to effect cash-settled FLEX ETF Options with the opportunity for a different method of settling option contracts at expiration if they choose to do so. As noted above, market participants may choose cash settlement because physical settlement possesses certain risks with respect to volatility and movement of the underlying security at expiration that market participants may need to hedge against. The Exchange believes that offering innovative products flows to the benefit of the investing public. A robust and competitive market requires that exchanges respond to member's evolving needs by constantly improving their offerings. Such efforts would be stymied if exchanges were prohibited from offering innovative products for reasons that are generally debated in academic literature. The Exchange believes that introducing cash-settled FLEX ETF Options would further broaden the base of investors that use FLEX Options to manage their trading and investment risk, including investors that currently trade in the OTC markets for customized options, where settlement restrictions do not apply. The proposed rule change is also designed to encourage market makers to shift liquidity from OTC markets onto the Exchange, which, it believes, will enhance the process of price discovery conducted on the Exchange through increased order flow. The Exchange also believes that this may open up cash-settled FLEX ETF Options to more retail investors. The Exchange does not believe that this proposed rule change raises any unique regulatory concerns because existing safeguards—such as position limits, exercise limits, and reporting requirements—would continue to apply.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[19] in general, and furthers the objectives of Section 6(b)(5) of the Act,[20] 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. Specifically, the Exchange believes that introducing cash-settled FLEX ETF Options will increase order flow to the Exchange, increase the variety of options products available for trading, and provide a valuable tool for investors to manage risk.

The Exchange believes that the proposal to permit cash settlement as a contract term for the proposed 25 FLEX ETF Options would remove impediments to and perfect the mechanism of a free and open market as cash-settled FLEX ETF Options would enable market participants to receive cash in lieu of shares of the underlying security, which would, in turn provide greater opportunities for market participants to manage risk through the use of cash-settled FLEX ETF Options to the benefit of investors and the public interest. The Exchange does not believe that allowing cash settlement as a contract term for the proposed 25 FLEX ETF Options would render the marketplace for equity options more susceptible to manipulative practices. As illustrated in the table above, each of the 25 ETFs is actively traded and highly liquid and thus not susceptible to manipulation for the following reasons. First, each ETF has a 20-day ADV of at least 7 million shares which indicates substantial liquidity present in the trading of these securities. Second, each ETF has a notional value over that 20-day period of at least $400 million which implies that the ETF has significant depth and breadth of market participants providing liquidity. Third, each ETF has a minimum of $2 billion of assets under management which demonstrates broad ownership as well as depth and breadth of investor interest. And finally, each ETF has an ADV of at least 10,000 options contracts which indicates that there is significant quoting and trading interest in the options overlying each ETF.

The Exchange believes that the data provided by the Exchange supports the supposition that permitting cash settlement as a FLEX term for the 25 ETFs selected by the Exchange would broaden the base of investors that use FLEX Options to manage their trading and investment risk, including investors that currently trade in the OTC market for customized options, where settlement restrictions do not apply.

The Exchange believes that the proposal to permit cash settlement would remove impediments to and perfect the mechanism of a free and open market because the proposed rule change would provide ATP Holders with enhanced methods to manage risk by receiving cash if they choose to do so instead of the underlying security. In addition, this proposal would promote just and equitable principles of trade and protect investors and the general public because cash settlement would provide investors with an additional tool to manage their risk. Further, the Exchange notes that its proposal to introduce cash-settled FLEX ETF Options is not novel in that other exchanges currently offer [sic] cash settlement for options whose underlying security is an ETF. The proposed rule change therefore should not raise any issues for the Commission that have not been previously addressed.[21]

The proposed rule change to permit cash settlement as a contract term for the 25 FLEX ETF Options is designed to promote just and equitable principles of

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] *See supra* note 17.

trade in that the availability of cash settlement as a contract term would give market participants an alternative to trading similar products in the OTC market. By trading a product in an exchange-traded environment (that is currently being used in the OTC market), the Exchange would be able to compete more effectively with the OTC market. The Exchange believes the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that it would lead to the migration of options currently trading in the OTC market to trading to the Exchange. Also, any migration to the Exchange from the OTC market would result in increased market transparency. Additionally, the Exchange believes the proposed rule change is designed to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest in that it should create greater trading and hedging opportunities and flexibility. The proposed rule change should also result in enhanced efficiency in initiating and closing out positions and heightened contra-party creditworthiness due to the role of OCC as issuer and guarantor of cash-settled FLEX ETF Options. Further, the proposed rule change would result in increased competition by permitting the Exchange to offer products that are currently used in the OTC market.

Finally, the Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in cash-settled FLEX ETF Options. Regarding the proposed cash settlement, the Exchange would use the same surveillance procedures currently utilized for the Exchange's other FLEX Options. For surveillance purposes, the Exchange would have access to information regarding trading activity in the pertinent underlying securities. The Exchange believes that limiting cash settlement to FLEX ETF Options would minimize the possibility of manipulation due to the robust liquidity in both the ETF and options markets.

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 proposal is designed to increase competition for order flow on the Exchange in a manner that is beneficial to investors because it is designed to provide investors seeking to effect cash-settled FLEX ETF Option orders with the opportunity for different methods of settling option contracts at expiration.

The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues who offer similar functionality. The Exchange believes the proposed rule change encourages competition amongst market participants to provide tailored cash-settled FLEX ETF Option contracts.

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, 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
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEAMER–2018–39 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2018–39. 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–NYSEAMER–2018–39, and should be submitted on or before May 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07614 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85612; File No. SR–FINRA–2019–011]

Self-Regulatory Organizations; Financial Industry Regulatory Authority Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Current Pilot Program Related to FINRA Rule 11892 (Clearly Erroneous Transactions in Exchange-Listed Securities)

April 11, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 9, 2019, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to extend the current pilot program related to FINRA Rule 11892 (Clearly Erroneous Transactions in Exchange-Listed Securities) to the close of business on October 18, 2019.

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA proposes to amend FINRA Rule 11892 (Clearly Erroneous Transactions in Exchange-Listed Securities) to extend the current pilot program to the close of business on October 18, 2019. This change is being proposed in connection with proposed amendments to the Plan to Address Extraordinary Market Volatility (the ''Limit Up-Limit Down Plan'' or the ''Plan'') that would allow the Plan to continue to operate on a permanent basis.[4]

On September 10, 2010, the Commission approved, on a pilot basis, changes to FINRA Rule 11892 that, among other things: (i) Provided for uniform treatment of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (ii) reduced the ability of FINRA to deviate from the objective standards set forth in the rule.[5] In 2013, FINRA adopted a provision designed to address the operation of the Plan.[6] Finally, in 2014, FINRA adopted two additional provisions providing that: (i) A series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information resulting in a severe valuation error for all such transactions; and (ii) in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of an [sic] self-regulatory organization or responsible single plan processor in connection with the transmittal or receipt of a regulatory trading halt, suspension or pause, a FINRA officer, acting on his or her own motion, shall declare as null and void any transaction in a security that occurs after the primary listing market for such security declares a trading halt, suspension or pause with respect to such security and before such trading halt, suspension or pause with respect to such security has officially ended according to the primary listing market.[7] These changes are currently scheduled to operate for a pilot period that coincides with the pilot period for the Limit Up-Limit Down Plan,[8] including any extensions to the pilot period for the Plan.[9]

The Commission recently published the proposed Eighteenth Amendment to the Plan to allow the Plan to operate on a permanent, rather than pilot, basis. FINRA proposes to amend FINRA Rule 11892 to untie the pilot program's effectiveness from that of the Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019—*i.e.,* six months after the expiration of the current pilot period for the Plan. If the pilot period is not either extended or approved as permanent, [sic] version of this Rule prior to SR–FINRA–2010–032 shall be in effect, and the amendments set forth in SR–FINRA–2014–021 and the provisions of Supplementary Material .03 of this Rule shall be null and void.[10] In such an event, the remaining text of FINRA Rule 11892 would continue to apply to all transactions in Exchange-Listed securities. FINRA understands that the national securities exchanges also will file similar proposals to extend their respective clearly erroneous execution pilot programs, the substance of which are identical to FINRA Rule 11982.

FINRA does not propose any additional changes to FINRA Rule 11892. FINRA believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a limited six-month pilot basis after the Commission approves the Plan to operate on a permanent basis. Assuming the Plan is approved by the Commission to operate on a permanent, rather than pilot, basis FINRA intends to assess whether additional changes also should be made to the operation of the clearly erroneous execution rules. Extending the effectiveness of FINRA Rule 11892 for an additional six months should provide FINRA and the national securities exchanges additional time to consider further amendments to the clearly erroneous execution rules in light of the proposed Eighteenth Amendment to the Plan.

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so FINRA can implement the proposed rule change immediately.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[11] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning the review of transactions as clearly erroneous. FINRA believes that extending the clearly erroneous execution pilot under FINRA Rule 11892 for an additional six months would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule

[4] *See* Securities Exchange Act Release No. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (File No. 4–631) (''Eighteenth Amendment'').

[5] *See* Securities Exchange Act Release No. 62885 (September 10, 2010), 75 FR 56641 (September 16, 2010) (Order Approving File No. SR–FINRA–2010–032).

[6] *See* Securities Exchange Act Release No. 68808 (February 1, 2013), 78 FR 9083 (February 7, 2013) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2013–012).

[7] *See* Securities Exchange Act Release No. 72434 (June 19, 2014), 79 FR 36110 (June 25, 2014) (Order Approving File No. SR–FINRA–2014–021).

[8] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the ''Limit Up-Limit Down Release'').

[9] *See* Securities Exchange Act Release No. 71781 (March 24, 2014), 79 FR 17615 (March 28, 2014) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2014–013).

[10] *See supra* notes 5–7. The version of this Rule prior to SR–FINRA–2010–032 generally provided greater discretion to FINRA with respect to breaking erroneous trades.

[11] 15 U.S.C. 78*o*–3(b)(6).

change also would help assure consistent results in handling erroneous trades across the U.S. equities markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, FINRA believes the amended clearly erroneous executions rule should continue to be in effect on a pilot basis while FINRA and the national securities exchanges consider and develop a permanent proposal for clearly erroneous execution reviews.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of harmonized clearly erroneous execution rules across the U.S. equities markets while FINRA and the national securities exchanges consider further amendments to these rules in light of the proposed Eighteenth Amendment to the Plan. FINRA understands that the national securities exchanges will also file similar proposals to extend their respective clearly erroneous execution pilot programs. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [15] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. FINRA has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become effective and operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the current clearly erroneous execution pilot program to continue uninterrupted, without any changes, while FINRA and the other national securities exchanges consider and develop a permanent proposal for clearly erroneous execution reviews. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[16]

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–FINRA–2019–011 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2019–011. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2019–011 and should be submitted on or before May 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07625 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 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. FINRA has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85614; File No. SR–MRX–2019–07]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot for Certain Options Market Rules That Are Linked to the Equity Market Plan To Address Extraordinary Market Volatility

April 11, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 5, 2019, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqmrx.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 the proposed rule change is to extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility (the ''Limit Up-Limit Down Plan'' or the ''Plan''). This change is being proposed in connection with a proposed amendment to the Limit Up-Limit Down Plan that would allow the Plan to continue to operate on a permanent basis (''Amendment 18'').

In an attempt to address extraordinary market volatility in NMS Stock, and, in particular, events like the severe volatility on May 6, 2010, U.S. national securities exchanges and the Financial Industry Regulatory Authority, Inc. (collectively, ''Participants'') drafted the Plan pursuant to Rule 608 of Regulation NMS and under the Act.[3] On May 31, 2012, the Commission approved the Plan, as amended, on a one-year pilot basis.[4] Though the Plan was primarily designed for equity markets, the Exchange believed it would, indirectly, potentially impact the options markets as well. Thus, the Exchange previously adopted Rules 702(d) and Supplementary Material .01 to Rule 720 to ensure the option markets were not harmed as a result of the Plan's implementation and has implemented such rules on a pilot basis that has coincided with the pilot period for the Plan (the ''Options Pilots'').[5]

The Commission recently published an Amendment 18, which would allow the Plan to operate on a permanent, rather than pilot, basis.[6] In connection with this change, the Exchange proposes to amend the Options Pilots to expire at the close of business on October 18, 2019—*i.e.,* six months after the expiration of the current pilot period for the Plan. Specifically, the Exchange proposes to amend Exchange Rules 702(d) and Supplementary Material .01 to Rule 720 to untie the Options Pilot's effectiveness from that of the Plan and to extend the Options Pilot's effectiveness to the close of business on October 18, 2019. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs, the substance of which are identical to the proposal.

The Exchange does not propose any additional changes to Exchange Rules 702 and 720. The Exchange believes the benefits to market participants from the Options Pilots should continue on a limited six month pilot basis after Commission approves the Plan to operate on a permanent basis. Assuming the Plan is approved by the Commission to operate on a permanent, rather than pilot, basis the Exchange intends to assess whether additional changes should also be made to the Options Pilots. Extending the Options Pilots for an additional six months should provide the Exchange and other national securities exchanges additional time to consider further amendments to their rules in light of proposed Amendment 18.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[7] in general, and Section 6(b)(5) of the Act,[8] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning rules for options markets adopted to coincide with the Plan. The Exchange believes that extending the Options Pilots for an additional six months would help assure that the rules subject to such Pilots are either similarly made permanent, amended or removed, following additional discussion and analysis by the Exchange and other national securities exchanges. The proposed rule change would also help assure that such rules are not immediately eliminated, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011) (File No. 4–631).

[4] *See* Securities and Exchange Act Release No. 67091 (May 31, 2012) 77 FR 33498 (June 6, 2012).

[5] *See* Securities Exchange Act Release No. 76998 (January 29, 2016), 81 FR 6066 (September 16, 2015) (File No. 10–221) (In the Matter of the Application of ISE Mercury, LLC for Registration as a National Securities Exchange (adopting Rule 702 and Supplementary .01 to Rule 720 to coincide with the pilot period for the Plan).

[6] *See* Securities Exchange Act Release Nos. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (Amendment No. 18 Proposing Release).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

believes the Options Pilots should continue to be in effect on a pilot basis while the Exchange and the other national securities exchanges consider and develop a permanent proposal for such rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of the Options Pilots while the Exchange and other national securities exchanges consider further amendments to these rules in light of proposed Amendment 18. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs, the substance of which are identical to this proposal. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) [11] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [12] 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 so that the proposed rule change may become effective and operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the current Options Pilots to continue uninterrupted, without any changes, while the Exchange and the other national securities exchanges consider and develop a permanent proposal for the Options Pilots. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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–MRX–2019–07 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–MRX–2019–07. 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–MRX–2019–07 and should be submitted on or before May 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07623 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85625; File No. SR–CboeEDGX–2019–020]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Add Certain Fees Related to the Listing and Trading of Options Contracts on the Mini-SPX Index

April 11, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 5, 2019, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 ''EDGX'') proposes to add certain fees related to the listing and trading of options contracts on the Mini-SPX Index (''XSP''). The text of the proposed rule change is attached as Exhibit 5 [sic].

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

On April 8, 2019, the Exchange's equity options platform (''EDGX Options'') will begin listing XSP options for trading.[3] Accordingly, the Exchange proposes to amend its Fee Schedule for EDGX Options to add: (i) Fee codes for XSP options that add or remove liquidity on the Exchange; (ii) Fee codes for XSP options executed through the Bats Auction Mechanism (''BAM''); (iii) Fee codes for complex orders in XSP options; (iv) Fee codes for XSP options that are routed away from the Exchange; and (v) to update the applicable fee codes under the Step Up Mechanism (''SUM'') Auction Pricing Tier. The proposed changes will be effective April 8, 2019.

Proposed Fee Codes for XSP Options—Add or Remove Liquidity

Proposed fee code XM will be appended to all Market Maker orders in XSP options that add liquidity, and will result in a fee of $0.20 per contract. Proposed fee code XF will be appended to all Firm orders in XSP options that add or remove liquidity, and will result in a fee of $0.45 per contract. Proposed fee code XC will be appended to all Customer orders in XSP options that add or remove liquidity, and will receive a rebate of $0.05 per contract. Proposed fee code XN will be appended to all Non-Customer or Non-Market Maker orders in XSP options that add or remove liquidity, and will result in a fee of $0.48. Proposed fee code XO will be appended to all orders in XSP options that trade on the open, and will be free.

Proposed Fee Codes for XSP Options—BAM Orders

Proposed fee code XD will be appended to all BAM Customer orders in XSP options, which will be free. Proposed fee code XB will be appended to all BAM Customer-to-Customer Immediate Cross orders, which will also be free.

Proposed Fee Codes for XSP Options—Complex Orders

Proposed fee code XP will be appended to all Customer complex orders executed on the complex order book (''COB'') against a Non-Customer contra party order in XSP options that add or remove liquidity, and will receive a rebate of $0.45 per contract. Proposed fee code XL will be appended to all Customer complex orders executed on the COB against a Customer contra party order in XSP options. Such orders will be free. Proposed fee code XV will be appended to all Customer complex orders that are not executed on the COB but instead leg into the Simple Book in XSP options. Such orders will also be free.

Proposed Fee Codes for XSP Options—Routed Away

Proposed fee code XR will be appended to all Customer orders in XSP options that are routed away from the Exchange and executed at another exchange, and will result in a fee of $0.25 per contract. Proposed Fee code XT will be appended to all Non-Customer orders in XSP options that are routed away from the Exchange and executed at another exchange, and will result in a fee of $0.90 per contract. Proposed Fee code XS will be appended to all orders in XSP options that route to another exchange at the open, and will be free.

Proposed Fee Codes for XSP Options Applicable to the SUM Auction Pricing Tier

The Exchange also proposes to add proposed fee codes XM, XF, XC, and XN to the applicable fee codes under footnote 3 for the SUM Auction Pricing Tier. Currently, under this tier, orders yielding the applicable fee codes (currently, there are 16 applicable fee codes) may receive an additional rebate of $0.05 per contract if the Member responds to and executes against an order subject to the SUM Auction. This pricing tier encourages Members to respond to SUM auctions.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the Section 6 of the Act,[4] in general, and Section 6(b)(4),[5] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

Specifically, the Exchange believes it is reasonable to charge different fee amounts to different user types in the manner proposed because the proposed fees are consistent with the price differentiation and type of Member transactions that exists today on the Exchange's affiliated exchange, Cboe Exchange, Inc. (''Cboe Options'') for index option products, including XSP options.[6] Additionally, the Exchange believes the proposed fee amounts for XSP orders are reasonable because the proposed fee amounts are within the range of the transaction fee amounts charged (or not charged, as is the case for Cboe Options Customer orders in XSP options) for orders in XSP options at Cboe Options.[7] The Exchange also notes that the proposed fees are reasonable as the Exchange's affiliated exchange, Cboe BZX Exchange, Inc. (''BZX Options'') recently added comparable fee codes for a newly listed index option product, the Russell 2000 Index options (''RUT'').[8] The Exchange

[3] *See* Securities Exchange Act Release No. 85182 (February 22, 2019), 84 FR 6846 (February 28, 2019) (Notice of Deemed Approval of a Proposed Rule Change To Permit the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options on a Pilot Basis) (SR–CboeEDGX–2018–037), which deemed the Exchange's proposed rule change to permit the listing and trading of P.M. settled XSP options with third-Friday-of-the-month expiration dates to have been approved January 28, 2019.

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(4).

[6] *See* Cboe Options Fees Schedule, Index Options Rate Table.

[7] *See* Cboe Options Fees Schedule, Index Options Rate Table, which shows that standard transaction fees for all index products (including XSP) orders range from $0.00 per contract to $0.75 per contract.

[8] *See* Securities Exchange Act Release No. 84401 (October 11, 2018), 83 FR 52591 (October 17, 2018)

believes these types of fee codes for newly or recently listed index options are reasonable because they promote and encourage trading in such products.

The Exchange also believes that it is equitable and not unfairly discriminatory to assess lower fees or enhanced rebates to Customers as compared to other market participants because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Moreover, the options industry has a long history of providing preferential pricing to Customers, and the Exchange's current Fee Schedule currently does so in many places, as do the fees structures of multiple other exchanges. The Exchange notes that all fee amounts applicable to Customers will be applied equally to all Customers, *i.e.,* all Customers will be assessed the same amount.

Additionally, the Exchange believes that it is equitable and not unfairly discriminatory to assess lower fees to Market Makers as compared to other market participants other than Customers because Market Makers, unlike other market participants, take on a number of obligations, including quoting obligations, that other market participants do not have. Further, these lower fees offered to Market Makers are intended to incent Market Makers to quote and trade more on EDGX Options, thereby providing more trading opportunities for all market participants. The Exchange notes that all fee amounts applicable to Market Makers will be applied equally to all Market Makers, *i.e.,* all Market Makers will be assessed the same amount. Similarly, the Exchange notes that the XSP fee amounts for each separate type of other market participant will be assessed equally to all such market participants, *i.e.,* all Firm orders will be assessed the same amount, and all Non-Customer and Non-Market Maker orders will be assessed the same amount. The Exchange also believes the lower fees assessed for Firm orders in XSP, as compared to Non-Customer or Non-Market Maker orders, are equitable and not unfairly discriminatory because the Exchange recognizes that Firms can be an important source of liquidity when they facilitate their own customers' trading activity, in turn, adding transparency and promoting price discovery to the benefit of all market participants.

The Exchange believes its proposed fees for XSP orders that are routed away from the Exchange are reasonable taking into account routing costs and also notes that the proposed fees are in line with amounts assessed by other exchanges.[9] For the reasons described above, the Exchange also believes that it is equitable and not unfairly discriminatory to assess lower routing fees to Customers as compared to other market participants. The Exchange notes that routing through the Exchange is voluntary and market participants can readily direct order flow to another exchange if they deem Exchange fee levels to be excessive.

Finally, the Exchange believes that it is reasonable to apply fee codes XM, XF, XC, and XN under footnote 3 for the SUM Auction Pricing Tier because various other comparable fee codes are currently applied to the SUM Auction Pricing Tier and orders yielding these fee codes currently receive the additional rebate. The Exchange believes that adding the proposed fee codes regarding orders in XSP options to the SUM Auction Pricing Tier is reasonable because an additional rebate per contract in XSP options is designed to increase liquidity and price discovery by encouraging Members to enter orders in newly listed XSP options in response to SUM auctions on the Exchange. Moreover, the Exchange believes the proposed additional fee codes eligible for the additional rebate under the SUM Auction Pricing Tier is equitable and not unfairly discriminatory because it is applied uniformly to all Members yielding the applicable fee codes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed amendments to its Fee Schedule will not 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 the XSP fee amounts for each separate type of market participant will be assessed equally to all such market participants. While different fees are assessed to different market participants in some circumstances, the obligations and circumstances between these market participants differ, as discussed above. For example, Market Makers have quoting obligations that are not applicable to other market participants. Further, the proposed fees structure for XSP is intended to encourage more trading of XSP, which brings liquidity to the Exchange and benefits all market participants.

The Exchange also does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed XSP fees are in line with amounts assessed by other exchanges. The Exchange notes that to the extent that the proposed fee rates and rebates for certain orders in XSP options make the Exchange a more attractive venue for market participants than other exchanges, market participants are welcome to become Members and execute such orders on the Exchange. Also, as stated, market participants are free to direct order flow to other competing venues if they deem the Exchange's fees excessive.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and paragraph (f) of Rule 19b–4 [11] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

(Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees on Cboe BZX Exchange, Inc.) (SR–CboeBZX–2018–0750 [sic]).

[9] *See* C2 Fees Schedule, Linkage Routing Fees. *See also* BZX Options Fee Schedule, Fee Codes and Associated Fees.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f).

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2019–020 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGX–2019–020. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGX–2019–020, and should be submitted on or before May 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07617 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85606; File No. SR–CboeEDGX–2019–015]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amending the Fee Schedule Applicable to Members and Non-Members of the Exchange Pursuant to EDGX Rules 15.1(a) and (c)

April 11, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 29, 2019, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') a 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 EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the fee schedule applicable to Members and non-Members[3] of the Exchange pursuant to EDGX Rules 15.1(a) and (c). The text of the proposed rule change is attached as Exhibit 5 [sic].

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 Exchange proposes to amend its fee schedule applicable to its equities trading platform (''EDGX Equities'') to introduce a ''Non-Displayed Add Volume Tier'' under Footnote 1, effective April 1, 2019.

Non-Displayed Add Volume Tier

Currently, with respect to the Exchange's equities trading platform, the Exchange determines the liquidity adding rebate that it will provide to Members using the Exchange's tiered pricing structure. The EDGX Equities fee schedule currently contains eight Add Volume Tiers that provide enhanced rebates, ranging from of $0.0025 to $0.0033 per share, for displayed orders that add liquidity (*i.e.,* yielding fee codes B,[4] V,[5] Y,[6] 3[7] and 4.[8]) The Exchange proposes to adopt a new Add Volume Tier under Footnote 1 that applies to non-displayed orders that add liquidity (*i.e.,* orders that yield fee codes DM[9], HA[10], MM[11], and RP[12]) called the Non-Displayed Add Volume Tier. As proposed, under the Non-Displayed Volume Tier, a Member would receive a rebate of $0.0026 per share if that Member adds an ADV[13] greater or equal to 0.08% of the TCV[14] as Non-Displayed orders that yield fee cods DM,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Member is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' See Exchange Rule 1.5(n).

[4] ''B'' is associated with displayed orders that add liquidity on EDGX for Tape B.

[5] ''V'' is associated with displayed orders that add liquidity on EDGX for Tape A.

[6] ''Y'' is associated with displayed orders that add liquidity on EDGX for Tape C.

[7] ''3'' is associated with displayed orders that add liquidity on EDGX for Tape A or C during the post-market or pre-market trading sessions.

[8] ''4'' is associated with displayed orders that add liquidity on EDGX for Tape B during the post-market or pre-market trading sessions.

[9] ''DM'' is associated with non-displayed orders that add liquidity using MidPoint Discretionary order within discretionary range.

[10] ''HA'' is associated with non-displayed orders that add liquidity.

[11] ''MM'' is associated with non-displayed orders that add liquidity using Mid-Point Peg.

[12] ''RP'' is associated with non-displayed orders that add liquidity using Supplemental Peg.

[13] ''ADV'' means average daily volume calculated as the number of shares added to, removed from, or routed by, the Exchange, or any combination or subset thereof, per day. ADV is calculated on a monthly basis.

[14] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

HA, HI,[15] MM or RP. The Exchange believes the proposed new tier will encourage Members to increase their liquidity on the exchange. The Exchange further notes that other Exchanges have similar non-displayed add volume tiers.[16]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,[17] in general, and furthers the requirements of Section 6(b)(4),[18] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its [sic]

In particular, the Exchange notes that volume-based rebates such as those currently maintained on the Exchange have been widely adopted by options exchanges and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value of an exchange's market quality; (ii) associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns; and (iii) introduction of higher volumes of orders into the price and volume discovery processes. The Exchange believes the proposal to introduce a new Non-Displayed Add Volume Tier under footnote 1 is reasonable because it provides Members an additional opportunity to receive an enhanced rate for orders that add liquidity and is a reasonable means to encourage Members to increase their liquidity on the Exchange. Deepening the Exchange's liquidity pool benefits investors by encouraging more price competition and providing additional opportunities to trade. The Exchange further believes the proposed threshold is commensurate with the proposed enhanced rebate and that it will encourage members to add increased liquidity to EDGX each month. The Exchange also notes that others Exchange [sic] have similar add volume tiers for non-displayed orders.[19] Lastly, the Exchange believes that the proposed Non-Displayed Add Volume Tier is not unfairly discriminatory as it applies uniformly to all Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposed change is designed to enhance competition by attracting additional liquidity and increasing the competitiveness of the Exchange. The proposed rebate tier would apply to all members uniformly based. The Exchange operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to encourage market participants to direct their order flow to the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[20] and paragraph (f) of Rule 19b–4[21] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR-CboeEDGX–2019–015 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR-CboeEDGX–2019–015. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGX–2019–015 and should be submitted on or before May 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Secretary.

[FR Doc. 2019–07629 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

[15] Fee code HI is appended to non-displayed orders that receive price improvement and add liquidity. *Id.*

[16] *See e.g.,* Cboe BZX U.S. Equities Exchange Fee Schedule, Footnote 1.

[17] 15 U.S.C. 78f.

[18] 15 U.S.C. 78f(b)(4).

[19] *See* Cboe BZX U.S. Equities Exchange Fee Schedule, Footnote 1.

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85622; File No. SR–BX–2019–007]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot to the Close of Business on October 18, 2019

April 11, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 5, 2019, Nasdaq BX, Inc. (''BX'' 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 extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.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 the proposed rule change is to extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility (the ''Limit Up-Limit Down Plan'' or the ''Plan''). This change is being proposed in connection with a proposed amendment to the Limit Up-Limit Down Plan that would allow the Plan to continue to operate on a permanent basis (''Amendment 18'').

In an attempt to address extraordinary market volatility in NMS Stock, and, in particular, events like the severe volatility on May 6, 2010, U.S. national securities exchanges and the Financial Industry Regulatory Authority, Inc. (collectively, ''Participants'') drafted the Plan pursuant to Rule 608 of Regulation NMS and under the Act.[3] On May 31, 2012, the Commission approved the Plan, as amended, on a one-year pilot basis.[4] Though the Plan was primarily designed for equity markets, the Exchange believed it would, indirectly, potentially impact the options markets as well. Thus, the Exchange has previously amended and adopted Chapter V, Section 3(d) to ensure the option markets were not harmed as a result of the Plan's implementation and has implemented such rules on a pilot basis that has coincided with the pilot period for the Plan (the ''Options Pilots'').[5]

The Commission recently published an Amendment 18, which would allow the Plan to operate on a permanent, rather than pilot, basis.[6] In connection with this change, the Exchange proposes to amend the Options Pilots to expire at the close of business on October 18, 2019—*i.e.,* six months after the expiration of the current pilot period for the Plan. Specifically, the Exchange proposes to amend Exchange Rules at Chapter V, Section 3(d) to untie the Options Pilot's effectiveness from that of the Plan and to extend the Options Pilot's effectiveness to the close of business on October 18, 2019. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs, the substance of which are identical to the proposal.

The Exchange does not propose any additional changes to Exchange Rule at Chapter V, Section 3. The Exchange believes the benefits to market participants from the Options Pilots should continue on a limited six month pilot basis after Commission approves the Plan to operate on a permanent basis. Assuming the Plan is approved by the Commission to operate on a permanent, rather than pilot, basis the Exchange intends to assess whether additional changes should also be made to the Options Pilots. Extending the Options Pilots for an additional six months should provide the Exchange and other national securities exchanges additional time to consider further amendments to their rules in light of proposed Amendment 18.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[7] in general, and Section 6(b)(5) of the Act,[8] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning rules for options markets adopted to coincide with the Plan. The Exchange believes that extending the Options Pilots for an additional six months would help assure that the rules subject to such Pilots are either similarly made permanent, amended or removed, following additional discussion and analysis by the Exchange and other national securities exchanges. The proposed rule change would also help assure that such rules are not immediately eliminated, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the Options Pilots should continue to be in effect on a pilot basis

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011) (File No. 4–631).

[4] *See* Securities and Exchange Act Release No. 67091 (May 31, 2012) 77 FR 33498 (June 6, 2012).

[5] *See* Securities Exchange Act Release Nos. 69140 (March 15, 2013), 78 FR 17255 (March 20, 2013); and 69343 (April 8, 2013), 78 FR 21982 (April 12, 2013) (SR–BX–2013–026) (amending Chapter V, Section 3(d) to coincide with the pilot period for the Plan).

[6] *See* Securities Exchange Act Release Nos. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (Amendment No. 18 Proposing Release).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

while the Exchange and the other national securities exchanges consider and develop a permanent proposal for such rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of the Options Pilots while the Exchange and other national securities exchanges consider further amendments to these rules in light of proposed Amendment 18. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs, the substance of which are identical to this proposal. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

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 Act [9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) [11] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [12] 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 so that the proposed rule change may become effective and operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the current Options Pilots to continue uninterrupted, without any changes, while the Exchange and the other national securities exchanges consider and develop a permanent proposal for Options Pilots. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (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–BX–2019–007 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–BX–2019–007. 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–BX–2019–007 and should be submitted on or before May 8,2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07619 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6). 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.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85627; File No. SR–BX–2019–006]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Transaction Fees at Equity 7, Section 118(a)

April 11, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1], and Rule 19b–4 thereunder,[2] notice is hereby given that on April 1, 2019, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's transaction fees at Equity 7, Section 118(a), as described further below.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.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 the proposed rule change is to amend the Exchange's transaction fees at Equity 7, Section 118(a) to adjust the qualifying terms for an existing credit it offers to members with orders that access liquidity on the Exchange.

The Exchange operates on the ''taker-maker'' model, whereby it pays credits to members that take liquidity and charges fees to members that provide liquidity. Currently, the Exchange offers several different credits for orders that access liquidity on the Exchange. Among these credits, the Exchange offers a $0.0015 per share executed credit for orders that access liquidity (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) that are entered by a member that accesses liquidity equal to or exceeding 0.075% of total Consolidated Volume [3] during a month. Because the Exchange has been growing in volume over the past few months, the Exchange recently increased the level of Consolidated Volume required to receive the credit from 0.065% to 0.075% of total Consolidated Volume during a month.[4] The Exchange believes that a lower volume requirement would help more firms grow as the exchange grows and is therefore proposing to adjust the requirement lower to 0.070%.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [7]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [8] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[9] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [10]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . .'' [11]

The Exchange believes that it is reasonable to decrease the Consolidated Volume threshold for orders that access liquidity in securities (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) that are entered by a member that accesses liquidity equal to or exceeding 0.075% of total Consolidated Volume during a month from .075% to 0.070% of total Consolidated Volume. The proposal is a modest decrease in the standard, which will ensure that members are providing adequate market participation in return for the credit while also making it more attractive to a greater number of members. The Exchange notes that the credit remains unchanged and therefore continues to be reasonable.

The Exchange believes that decrease to the total Consolidated Volume requirement is an equitable allocation and is not unfairly discriminatory because the Exchange will apply the same credit to all similarly situated members. Again, the proposed change is a moderate decrease to the Consolidated Volume requirement, which will make the credit more attractive to a greater number of members, any of which may choose to provide the level of Consolidated Volume required to receive the credit.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other

[3] Pursuant to Equity 7, Section 118(a), the term ''Consolidated Volume'' means the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot.

[4] *See* Securities Exchange Act Release No. 85298 (March 13, 2019), 84 FR 10158 (March 19, 2019) (SR–BX–2019–003).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

[7] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[8] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[9] *See NetCoalition,* at 534–535.

[10] *Id.* at 537.

[11] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the Exchange's proposed credit amendment does not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues. The proposed modification to the $0.0015 per share executed credit represents a modest decrease in the criteria required to qualify for the credit. Thus, members will be able to receive the credit by accessing a lower amount of Consolidated Volume during a month. The Exchange believes that lowering the level of Consolidated Volume will incentivize more members to provide the market-improving Consolidated Volume needed to qualify for the credit. If the proposal is unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposal will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[12]

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–BX–2019–006 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–BX–2019–006. 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–BX–2019–006 and should be submitted on or before May 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07615 Filed 4–16–19; 8:45 am]

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[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85626; File No. SR–CboeEDGX–2019–017]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Adopt All-or-None ("AON") Orders

April 11, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 2, 2019, Cboe EDGX Exchange, Inc. (''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 Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') proposes to adopt all-or-none (''AON'') orders. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), 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

[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).

concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In 2016, the Exchange's parent company, Cboe Global Markets, Inc. (''Cboe Global''), which is the parent company of Cboe Exchange, Inc. (''Cboe Options'') and Cboe C2 Exchange, Inc. (''C2''), acquired the Exchange, Cboe EDGA Exchange, Inc. (''EDGA''), Cboe BZX Exchange, Inc. (''BZX or BZX Options''), and Cboe BYX Exchange, Inc. (''BYX'' and, together with C2, Cboe Options, the Exchange, EDGA, and BZX, the ''Cboe Affiliated Exchanges''). The Cboe Affiliated Exchanges are working to align certain system functionality, retaining only intended differences between the Cboe Affiliated Exchanges, in the context of a technology migration. Cboe Options intends to migrate its technology to the same trading platform used by the Exchange, C2, and BZX Options in the fourth quarter of 2019. The proposal set forth below is intended to add certain functionality to the Exchange's System that is available on Cboe Options in order to ultimately provide a consistent technology offering for market participants who interact with the Cboe Affiliated Exchanges. Although the Exchange intentionally offers certain features that differ from those offered by its affiliates and will continue to do so, the Exchange believes that offering similar functionality to the extent practicable will reduce potential confusion for Users.

The Exchange proposes to adopt AON orders. Proposed Rule 21.1(d)(4) defines AON orders as orders to be executed in their entirety or not at all. Additionally, it specifies that AON orders may be market or limit orders. Several other options exchanges offer AON orders (which can be market or limit orders), and this proposed definition is consistent with the definition of AON orders in other options exchanges' rules, including Cboe Options.[5] The Exchange will not disseminate bids or offers of AON orders to OPRA, as the prices of AON orders are not included in the Exchange's best bid or offer (''BBO'') for a series.[6]

The proposed AON order is similar to the existing Minimum Quantity Order currently available on the Exchange. Minimum Quantity Orders are orders that require a specified minimum quantity of contracts be obtained, or the order is cancelled.[7] Today, a Minimum Quantity Order with the minimum set as the full size of the order would function similar to the proposed AON order (except, as noted above, an AON order will not be required to be submitted as IOC).[8] The Exchange also offers a fill-or-kill (''FOK'') Time-in-Force, pursuant to which a limit order is to be executed in its entirety as soon as it is received and, if not so executed, cancelled.[9] A FOK order is equivalent to an AON entered with an IOC Time-in-Force. As discussed below, unlike Minimum Quantity Orders or orders designated as FOK, AON orders may rest in the Book or be routed, may also be market orders, and may have any Time-in-Force. However, the primary characteristic of both, which is that they must execute in their entirety, is the same.

The proposed rule change does not permit a User to designate an AON order as Post Only.[10] An AON order's size contingency, and the fact that (as discussed below) AON orders will have last priority while resting in the EDGX Options Book, will provide AON orders resting on the EDGX Options Book with few opportunities for AON orders to receive an execution. For this reason, the Exchange believes there will be minimal investor demand for Post Only AON orders.[11] The Exchange believes it is appropriate to not restrict the opportunities for execution of an AON order to the minimal execution opportunities that would exist for an AON order while resting on the Book. This ensures that an AON order may execute upon entry if there is sufficient size resting on the EDGX Options Book, as well as have an opportunity for execution if it cannot so execute.

Additionally, the proposed rule change only permits Users to apply MCN (MTP cancel newest), but no other MTP Modifiers, to an AON order.[12] Rule 21.1(g)(1) provides that an incoming order marked with the MCN Modifier will not execute against opposite side resting interest market with any MTP modifier originating from the same Unique Identifier. The incoming order marked with the MCN modifier will be cancelled back to the originating User(s). The resting order marked with an MTP modifier will remain on the EGDX Options Book. The Exchange believes there will be little demand for the use of any MTP Modifiers on AON orders given that primarily retail investors submit AONs, and retail investors are unlikely to have interest

[5] *See, e.g.,* Cboe Options Rule 6.53(i); NASDAQ ISE, LLC (''ISE'') Rule 715(c) (ISE requires AON orders to be entered as immediate-or-cancel (''IOC'')); NASDAQ OMX PHLX, LLC (''PHLX'') Rule 1066(c)(4); NASDAQ Options Market LLC (''NOM'') Chapter VI, Section 1(e)(10) (NOM requires AON orders to be entered as IOC and only after the market open); and NYSE Arca, Inc. (''Arca'') Rule 6.62–O(d)(4). The proposed rule change permits Users to apply all Times-in-Force to AON orders (as Cboe Options permits), as the Exchange already offers fill-or-kill (''FOK'') orders, which are the equivalent of an IOC AON order. *See* Rule 21.1(f)(5) (a FOK order is a limit order that is to be executed in its entirety as soon as it is received and, if not so executed, cancelled). However, as discussed below, Users may not apply a Post Only instruction to AON orders.

[6] *See* proposed Rule 21.1(d)(4)(A). Rules of other options exchanges explicitly provide that AON orders are not disseminated to OPRA. *See, e.g.,* Cboe Options Rule 6.44, Interpretation and Policy .02; and Phlx Option Floor Procedures A–9. Proposed Rule 21.1(d)(4)(E) states the Exchange may restrict the entry of AON orders in a series or class if the Exchange deems it necessary or appropriate to maintain a fair and orderly market. Cboe Options rules provide it with the same authority. *See, e.g.,* Cboe Options Rule 6.44, Interpretation and Policy .03.

[7] *See* Rule 21.1(d)(3). While Minimum Quantity Orders may only be IOC, the proposed rule change does not limit the Times-in-Force that Users may apply to AON orders as discussed above.

[8] For example, a Minimum Quantity Order for 100 contracts with a minimum set at 100 contracts has the same result as an AON order for 100 contracts, because both can only trade against an order(s) for 100 contracts.

[9] *See* Rule 21.1(f)(5). The proposed rule change does not adopt a provision corresponding to Cboe Options Rule 6.44, Interpretation and Policies .04 or .05, because the Exchange believes those provisions are redundant and unnecessary. Cboe Options Rule 6.44 states that an all-or-none bid or offer shall be deemed to be made only for the amount stated (*i.e.,* deemed to be all-or-none), which is redundant of the proposed definition of an AON order. Similarly, Cboe Options Rule 6.44, Interpretation and Policy .04, which essentially says that a FOK order will be deemed to be made only for the amount stated, is redundant of the Exchange's current definition of a FOK order. Cboe Options Rule 6.44, Interpretation and Policy .05 relates to minimum volume orders (which are similar to Minimum Quantity Orders on the Exchange, except minimum volume orders on Cboe Options may only be executed in open outcry), and states minimum volume orders will be deemed to be made only for the amount stated (*i.e.,* deemed to be all-or-none), which the Exchange believes is redundant of the Exchange's current definition of a Minimum Quantity Order.

[10] *See* proposed Rule 21.1(d)(4)(B). Pursuant to Rule 21.1(d)(8), a Post Only order may not, among other things, remove liquidity from the EDGX Options Book.

[11] Cboe Options does not offer a Post Only instruction. Additionally, other exchanges, such as ISE and NOM, only permit AON orders to be entered as IOC, and thus AON orders at those options exchanges would only execute upon entry and never rest on the book (and thus Post Only, if available on those exchanges, would not be permitted).

[12] *See* proposed Rule 21.1(d)(4)(D). If a User applies any other MTP Modifier to an AON order, the System will handle it as an MCN).

on both sides of the market. Given this expected minimal demand, the Exchange believes offering one MTP Modifier for AON orders is sufficient. The Exchange believes MCN is the most appropriate MTP modifier for AON orders, because it is the simplest modifier to implement from a System perspective and an offering of other MTP modifier for investors would present significant technical complexities given the size contingency of AON orders.[13] Additionally, the Exchange has determined to handle an AON order with any other MTP Modifier as an MCN rather than cancel the AON, because the proposed rules provide investors with sufficient transparency regarding how the System will handle AON orders with MTP Modifiers, and Users may achieve other results manually if so desired. For example, if User were to prefer to have a resting order with an MTP Modifier cancel and let the newer AON order rest, it could manually cancel the resting order and then resubmit the AON order.

Cboe Options offers match trade prevention only for market-makers, and thus the Cboe Options rules regarding AON orders contains no restrictions on the use of match trade prevention instructions, as it would only be available to market-makers that submit AON orders. Because the Exchange has match-trade prevention functionality available for all Users and not just Market-Makers, the Exchange believes it is appropriate to provide this functionality to all Users that submit AON orders and want match trade prevention functionality. The rules of other exchanges are also silent on whether any match trade prevention instructions are available for AON orders.

An AON limit order will always be subject to the Price Adjust process in Rule 21.1(i).[14] Because AON orders will have last priority on the EDGX Options Book (as discussed below), the Exchange believes it will maximize execution opportunities for AON limit orders to be subject to the Price Adjust process.[15] The Price Adjust process applies to orders (subject to the User's instructions or the Rules) that do not execute upon entry and go to rest in the EDGX Options Book (for example, because an order is not marketable upon entry, is not eligible to route, or, in the case of an AON order, there is insufficient size to satisfy its size contingency). It ensures these orders rest at executable prices in accordance with linkage rules.[16]

Currently, if an order, at the time of entry, would lock or cross a Protected Quotation of another options exchange or the Exchange, it will be ranked and displayed by the System at one minimum price variation below (above) the current NBO (NBB) for bids (offers).[17] An AON order resting on the EDGX Options Book is not displayed or part of the BBO (thus is not protected and would not be part of the NBBO). The proposed rule change provides that AON orders will rest on the EDGX Options Book at potentially executable prices (and thus not at prices that cross a Protected Quotation or the BBO).

Specifically, proposed Rule 21.1(i)(1)(A)(ii) provides if a buy (sell) non-AON order, at the time of entry, would lock or cross the offer (bid) of a sell (buy) AON order resting on the EDGX Options Book at or better than the Exchange's best offer (bid), the System ranks [18] the resting AON order at one minimum price variation above (below) the bid (offer) of the non-AON order. This is consistent with the price at which non-AON orders would rest on the EDGX Options Book if subject to price adjustment (except price adjustment currently only applies to incoming orders, not resting orders). For example, if an AON order to buy 5 at 1.10 is resting on the EDGX Options Book (which is the NBB), and a non-AON order to sell 1 (which does not satisfy the size of the AON order) at 1.10 enters the EDGX Options Book, the System reprices the AON order to rest in the EDGX Options Book at 1.05 (assuming the minimum price variation for the class is $0.05).

Similarly, pursuant to proposed Rule 21.1(i)(1)(B)(ii), if a buy (sell) AON order, at the time of entry, would lock or cross a Protected Offer (Bid) of the Exchange, the System ranks the incoming AON order at a price one minimum price variation below (above) the offer (bid) of the non-AON order resting on the EDGX Options Book at the Protected Offer (Bid). This is consistent with how an incoming non-AON would be handled if it locked or crossed a Protected Offer (Bid) of the Exchange. For example, if a non-AON order to buy 1 at 1.10 is resting at the top of the EDGX Options Book, and an AON order to sell 5 (which cannot satisfied by the resting interest) at 1.10 enters the EDGX Options Book, the System reprices the AON order to rest in the EDGX Options Book at 1.15 (assuming the minimum price variation for the class is $0.05).

Proposed subparagraph (i)(1)(B)(i) states if a buy (sell) AON order, at the time of entry, would cross a Protected Offer (Bid) of another options exchange or a sell (buy) AON order resting on the EDGX Options Book at or better than the Exchange's best offer (bid), the System will rank the incoming AON order at a price equal to the Protected Offer (Bid) or the offer (bid) of the resting AON order, respectively. For example, if a buy AON order has a bid of 1.05 and enters the EDGX Options Book when the NBO is 1.00, the System ranks the AON order at a 1.00 bid.[19] Or, if a sell AON order has an offer of 1.10 and enters the EDGX Options Book, where there is a resting AON order with a bid of 1.15, the System ranks the incoming AON order at a price of 1.15.

The proposed rule change applies the current Price Adjust process to the existence of AONs to reflect the fact that AONs are not displayed on the EDGX Options Book (and thus are not Protected Quotations). This factor distinguishes AONs from other orders on the Exchange. The Exchange believes the proposed application of the Price Adjust process to AONs is reasonable, because an AON order will rest on the EDGX Options Book at an executable price (*i.e.,* a price that locks or is one minimum price variation away from the new Protected Quotation or AON resting on the EDGX Options Book at or better than the Exchange's BBO).[20] The

[13] Additionally, the Decrement and Cancel MTP Modifier is inconsistent with an AON order, because it may result in partial execution of an order.

[14] *See* proposed Rule 21.1(d)(4)(C). If an AON market order is unable to execute for any reason, it would cancel in accordance with the terms of a market order. This is consistent with the handling of any other market order that was not able to execute on the Exchange.

[15] If a User does not want an AON order to rest on the EDGX Options Book at an adjusted price, it may cancel the AON order and resubmit it for execution at a later time.

[16] *See* Rule 27.3, which provides that the Exchange will reasonably avoid displaying quotations that lock or cross a Protected Quotation.

[17] *See* current Rule 21.1(i)(1) (which the proposed rule change renumbers and letters to be Rule 21.1(i)(1)(A)(i)).

[18] In the EDGX Rules, the term ''ranked'' means that an order will be prioritized and eligible for execution at its ranked price for purposes of allocation if an execution were to occur at that price. For an AON order ''ranked'' at a price, it would be prioritized last at that price (as discussed above).

[19] Pursuant to subparagraph (i)(2), if the NBO changes to 1.05, the resting AON order would receive a new timestamp and be repriced to 1.05.

[20] The proposed rule change makes corresponding changes to Rule 21.1(i)(2) to provide that in the event the circumstances that caused the System to adjust the price of an order pursuant to proposed subparagraph (1) change so that it would not lock or cross, as applicable, a Protected Quotation or an AON resting on the EDGX Options Book at a price at or better than the Exchange's BBO, the order subject to the price adjust will receive a new timestamp and be ranked or

Continued

proposed process will generally re-price the incoming (and thus later arriving order), which is consistent with the current Price Adjust process. As proposed, if an incoming buy (sell) AON order locked or crosses a Protected Offer (Bid) of the Exchange (*i.e.,* a non-AON order that was displayed at the Exchange's best offer (bid)), the System would adjust the price of the AON order to be one minimum price variation below (above) the Protected Offer (Bid). Similarly, if an incoming buy (sell) AON order crossed a Protected Offer (Bid) of another options market or a sell (buy) AON order resting on the Exchange, the System would adjust the price of the incoming order. However, unlike the current Price Adjust process, the proposed rule change will reprice a resting AON order rather than an incoming non-AON order, because AON orders have last priority (as discussed below) and are not displayed, and thus should not cause the price of an incoming non-AON order to reprice. Because AONs are not displayed and have last priority on the Book, the Exchange believes it is appropriate to adjust the price of an AON rather than an incoming order that would be displayed and protected. The proposed rule change is consistent with linkage rules, because AONs will not be part of the EDGX BBO, and repricing an AON to lock an away exchange price or a resting (and nondisplayed) order on the EDGX Options Book will, therefore, not result in a displayed locked market.

The proposed rule change also ensures that a resting AON order will not lock the price of a Protected Quotation on the EDGX Options Book. This prevents the situation in which an incoming order may execute ahead of the resting non-AON order. For example, if a non-AON order to buy 1 at 1.10 is resting on the EDGX Options Book, and an AON order to sell 5 (and thus is not satisfied by the resting interest) at 1.10 enters the EDGX Options Book, if the System permitted the AON order to rest at a price of 1.10 (rather than reprice the AON to rest at 1.15 as proposed), if subsequently an AON to buy 5 at 1.10 was submitted to EDGX Options, that AON would execute against the resting AON at 1.10, and thus ahead of the non-AON order to buy.[21] The proposed rule change will also reprice an AON order to a more aggressive price up to the limit price at which it would be able to execute without causing a trade-through as the market changes.[22]

Cboe Options does not have functionality that corresponds to the Price Adjust process. However, Cboe Options rules do not provide any special handling that applies to AON orders that lock or cross orders on Cboe Options or the quote of an away options market. Therefore, pursuant to Cboe Options' rules, if an AON order is unable to execute upon entry into the Cboe Options System (or after routing, if eligible for routing pursuant to Cboe Options' rules), the AON order will rest at its price, even if it locks or crosses the Cboe Options BBO or the quote of an away options market.[23] The proposed rule change will similarly permit an AON order to rest at a price that locks the quote of an away options market, as well as an AON order resting on the EDGX Options Book at a price at or better than the EDGX Options BBO. On Cboe Options, an AON order resting at a price that locks or crosses an order may only execute in accordance with the priority principles set forth in Cboe Options Rule 6.45 and may not execute at prices that would cause a trade-through pursuant to Cboe Options Rule 6.81. The Exchange believes the proposed rule change ultimately creates the same result for a resting AON order that would otherwise occur on Cboe Options (the proposed rule change merely changes the price of an AON order upon entry rather than at the time of execution), and in some cases results in price improvement for an AON order.

For example, as proposed, if the EDGX BBO was 1.15 x 1.30 (size of 50), and the NBBO was 1.15 x 1.20 (size of 50), and a User submitted an AON order for 100 to buy at 1.25, the AON order would rest on the EDGX Options Book with a price of 1.20 (which locks the Protected Offer of 1.20). If an order to sell 100 at 1.20 was later submitted to EDGX Options, it would execute against the resting AON order at its ranked price of 1.20. On Cboe Options, the AON would rest at 1.25. If an order to sell 100 at 1.20 was later submitted to Cboe Options, it would execute against the resting AON order at a price of 1.20 (and thus the same price at which it would execute on EDGX Options), as executions may only occur at or within the NBBO.

Additionally, suppose the EDGX BBO was 1.15 x 1.25 (non-AON order with size of 50), and was also the NBBO, and a User submitted an AON order for 100 to buy at 1.25, the AON order would rest on the EDGX Options Book with a price of 1.20 (which is one minimum price variation below the resting non-AON order). If an order to sell 100 at 1.20 was later submitted to EDGX Options, it would execute against the resting AON order at a price of 1.20 (which results in price improvement for the AON order). On Cboe Options, the AON would rest at 1.25. If an order to sell 100 at 1.20 was later submitted to Cboe Options, the AON would receive execution at a price of 1.25.[24] The Exchange believes the proposed rule change is an enhancement that will prevent such incoming orders to trade against a resting AON at the same price as a resting non-AON order on the opposite side of the market that had insufficient size to trade against the AON order.

As another example, if the EDGX BBO was 1.15 x 1.30 and was also the NBBO, and there was a sell AON order for 50 to sell at 1.25 resting on the EDGX Options Book, and a User submitted an AON order for 100 to buy at 1.25, the incoming AON order would rest on the EDGX Options Book at 1.25 (which locks the resting AON order). If an order to sell 100 at 1.25 was later submitted to EDGX Options, it would execute against the resting AON order to buy at 1.25. This is the same result that would occur on Cboe Options.

Because the proposed Price Adjust process always applies to an AON order, which provides that an AON order may rest at a price that locks the price of an away options exchange, proposed Rule 21.9(a)(3)(B) states that a User may not apply the Super Aggressive Re-Route instruction. The Super Aggressive Re-Route instruction provides that if an order resting on the EDGX Options Book

displayed at a price that locks or is one minimum price variation away from the new Protected Quotation or AON resting on the EDGX Options Book at a price at or better than the Exchange's BBO. These proposed changes reflect the fact that the trade or cancellation of an order resting on the EDGX Options Book at or better than the Exchange's best offer (bid) (as applicable) may cause a resting AON order to become repriced. Pursuant to the current Price Adjust process applicable to non-AON orders, repricing only occurs when the NBBO changes. The proposed rule change adds the phrase ''if applicable'' to the current rule text regarding orders being ranked and displayed to reflect the fact that AON orders will not be displayed in the EDGX Options Book.

[21] Priority rules apply to orders resting in the Book, not incoming orders. Therefore, with respect to an incoming order, the System checks opposite side interest to see if the incoming order can execute. It does not check to see if there is same-side interest ahead of which it cannot trade, as there would only be marketable same-side interest (from a price perspective) that would not otherwise execute against opposite side interest if such opposite side interest was an AON order.

[22] *See* Rules 27.2 (which prohibits trade-throughs, subject to certain exceptions) and 27.3 (requires the Exchange to reasonably avoid displaying quotes that lock a Protected Quotation).

[23] If the AON order submitted to Cboe Options was a market order and was unable to execute for any reason, it would cancel in accordance with the terms of a market order. This is consistent with the handling of any other market order that was not able to execute on the Exchange.

[24] *See* Cboe Options Rule 6.45.[sic]

at a price that becomes subsequently locked or crossed by the price of another options exchange, the System will route the order to that exchange. This instruction conflicts with the proposed Price Adjust process for an AON order, which may enter the EDGX Options Book at a price that locks the price of another options exchange. A User may apply the Aggressive Re-Route instruction pursuant to Rule 21.9(a)(3)(A), pursuant to which a resting AON order may be re-routed if its price is subsequently crossed by another options exchange.

Cboe Options does not have a process that corresponds to the Exchange's Re-Route instructions. As a result, if an AON order were resting on the Cboe Options Book, it will remain there, even if it is resting at a price that subsequently becomes locked or crossed by another options exchange. AON orders resting on the EDGX Options Book that subsequently become locked by another options exchange will be handled in the same manner as those AON orders would be handled by Cboe Options—they will remain on the EDGX options Book and not route to an away market. However, because the Exchange will make the Aggressive Re-Route instruction available to AON orders (which Users may specify when submitting AON orders), the proposed rule change will provide an AON order submitted to the Exchange that includes an Aggressive Re-Route instruction and rests at a price that subsequently becomes crossed by another options exchange with additional routing (and thus execution) opportunities not currently available to AON orders on Cboe Options.

The proposed rule change provides that the Exchange will accept AON orders for queuing prior to the completion of the Opening Process, but AON orders will not participate in the Opening Process. Following completion of the Opening Process, the System processes any queued AON orders in accordance with Rule 21.8.[25] In other words, it may execute if possible or rest in the EDGX Options Book, subject to a User's instructions (for example, the User may cancel the AON order). As set forth in Rule 21.7(b), the System executes orders at the opening price, in accordance with standard priority (as discussed below, AON orders will have last priority at each price level). Given the size contingency of an AON order and the last priority of AON orders, it will not be known whether there will be sufficient size to execute AON orders at the opening price until after the System executes all other interest at the opening price. AON orders will be eligible for execution once a series is open for trading.

Currently on Cboe Options, AON orders may participate in the opening process in classes in which it has activated the Hybrid Agency Liaison (''HAL'') for openings.[26] HAL is the Cboe Options equivalent to the Exchange's Step Up Mechanism (''SUM''). EDGX does not activate SUM for openings, making classes trading on EDGX similar to classes trading on Cboe Options in which Cboe Options has not activated HAL for openings. Therefore, the proposed rule change is consistent with the Cboe Options rule.

Additionally, the opening process on Cboe Options is an auction and thus significantly different than the Exchange's Opening Process, which is a cross at a valid price as set forth in Rule 21.7. The Exchange believes it is best for investors to open a series for trading as soon as possible. As noted above, it will not be known whether there will be sufficient size to execute AON orders at the opening price until after the System executes all other interest at the opening price, since AON orders will have last priority. The Exchange believes it is appropriate to exclude AON orders from the Opening Process to ensure series can open as fast as possible. Currently, once the Exchange determines the Opening Price for a series (for example, the NBBO), it executes as much interest as possible at that price and opens a series. If AONs were eligible for execution during the Opening Process, after executing non-AON interest, the System would then have to check to determine whether there was sufficient size to execute against any AON orders. Rather than delay the opening of a series to determine whether an execution of AON orders can occur (and no execution may ultimately occur), the Exchange believes it is appropriate to open the series and let all non-executed orders (including AONs) be eligible for execution in an open trading state. Execution of any AON orders whose size contingency can be satisfied by any other interest on the Exchange would occur just after the opening of the series, which is close to the time at which it would have executed if the System waited to open the series and executed these orders during the Opening Process. Therefore, the Exchange believes not attempting to execute AON orders until after the Opening Process would have a de minimis impact, if any, on the time of execution of an AON order.

Proposed Rule 21.8(m) sets forth the priority of AON orders. AON orders will have last priority at each price level (including after nondisplayed Reserve Quantity). The System allocates AON orders at the same price based on the time the System receives them (*i.e.,* in time priority), except if the Exchange applies the Customer Overlay to a class, Priority Customer AON orders have priority over non-Priority Customer AON orders.[27] An AON order must always be last in priority to ensure there is sufficient size to satisfy the condition of that order to trade in its entirety after all other orders at the same price have executed. Additionally, the Exchange believes it is reasonable for orders not displayed in the book to not receive priority over orders that are displayed, as this encourages market participants to display their best bids and offers, which may lead to enhanced liquidity and tighter markets. This is consistent with the non-inclusion of AON orders in the BBO or NBBO, as discussed above.

The proposed rule change states that a transaction may occur at the same price as an AON order resting on the EDGX Options Book without the AON order participating in the transaction, and that a transaction may occur at a price lower (higher) than an AON order bid (offer) resting on the EDGX Options Book if the size of the transaction is less than the size of the resting AON order. As discussed above, an AON order will trade last at each price level. These proposed provisions ensure execution of an AON order if there is sufficient size to satisfy the AON order, while not preventing execution of orders that can execute against other interest but cannot satisfy the AON order size contingency.[28]

Users may designate AON orders to be routable pursuant to Rule 21.9. Pursuant to proposed rule 21.9(a)(1), the System only routes an AON order (as an FOK) designated as available for routing to options exchanges with sufficient size to satisfy the AON order. Pursuant to current Rule 21.9(a)(1), orders are routed as IOCs. Because a FOK order is equivalent to an AON order designated as IOC, routing an AON as a FOK is

[25] *See* proposed Rule 21.7(a).

[26] *See* Cboe Options Rule 6.2(c)(i)(B).

[27] This priority is the same as the priority of AON orders on Cboe Options. *See* Cboe Options Rule 6.45(a)(v)(D). This priority is also consistent with Cboe Options Rule 6.44, Interpretation and Policy .01, which the Exchange is not explicitly adopting because it is redundant with this proposed provision, because having last priority means that AON orders will only trade if there is no other interest at the same price. Cboe Options Rule 6.44 does not address customer priority.

[28] These provisions are substantively the same as Cboe Options Rule 6.44, Interpretation and Policy .02.

consistent with the Exchange's current routing rule. Only routing an AON order to an exchange with sufficient size to satisfy the AON order ensures the System will only route an AON order at which it may receive an execution.[29]

An AON order may be exposed pursuant to the Exchange's Step Up Mechanism (''SUM'') pursuant to Rule 21.18. An AON order will be exposed and executed in the same manner as a non-AON order during SUM, except as follows:

• Currently, any responses priced at the prevailing NBBO[30] or better, and any unrelated order (or quote) on the opposite side of the market from the exposed order that could trade against the exposed order at the prevailing NBBO or better, will immediately trade against the exposed order, and the exposure period will continue.[31] A SUM exposure period will currently terminate upon the receipt of a response (or unrelated order or quote) to trade the entire exposed order at the NBBO or better.[32] Because an AON order cannot partially execute pursuant to its terms, the proposed rule change provides that during the exposure of an AON order, the System will hold responses priced at or better than the prevailing NBBO (rather than trade against the exposed AON immediately) until there is sufficient aggregate size to satisfy the AON order, and that a SUM exposure period will terminate upon the receipt of multiple responses with sufficient aggregate size to satisfy the AON order.[33] The proposed rule change also states that if the exposed order is an AON order, the exposure period will terminate upon the receipt of multiple responses and unrelated orders in quotes with sufficient aggregate size to satisfy the exposed AON order.[34] This is consistent with size contingency of an AON order and will provide an AON order with opportunities to have its size contingency met during an exposure period, while ensuring the entire AON order will trade at a price equal to or better than the NBBO.

• Currently, as noted above, if the Exchange receives an unrelated order or quote that could trade against the exposed order at the prevailing NBBO price or better, that order executes against the exposed order, and the exposure period continues. The proposed rule change states if an AON order is exposed and the Exchange receives an unrelated order (or quote) that would be displayed at a price at or better than the NBBO with insufficient size to satisfy the exposed order, the SUM exposure period terminates and the exposed order is processed pursuant to Rule 21.18(c) (it either executes, routes, or enters the EDGX Options Book, subject to a User's instructions).[35] If an AON order is exposed and the Exchange receives an unrelated AON order with a price at or better than the NBBO with insufficient size to satisfy the exposed order the exposure period will continue.[36] This is consistent with current SUM functionality, pursuant to which the exposed price of an order will not lock the Exchange's opposite side BBO if the BBO is not at the NBBO. Because a SUM would not have begun if the Exchange displayed a contra-side order at the NBBO, the Exchange believes it is appropriate to terminate the exposure period if that situation arises during the exposure period. Unlike when non-AON orders are exposed, an unrelated order (if it is smaller than the exposed AON order) will not execute against the exposed order, and thus would enter the EDGX Options Book. For example, suppose the NBBO is 1.00 x 1.20 and the EDGX Options BBO is 1.00 x 1.25, and an AON order to buy 10 at 1.20 is exposed at 1.20 pursuant to SUM. During the exposure period, the Exchange receives an order to sell 5 at 1.20. The incoming order cannot satisfy the size of the exposed AON order, so it would enter the EDGX Options Book and would cause the EDGX Options BBO to become 1.00 x 1.20. Therefore, upon receipt of that order, the exposure period terminates and the exposed AON order will be process pursuant to Rule 21.18(c) (as further discussed below, it will be routed or will enter the EDGX Options Book, subject to a User's instructions). In this case, if there is insufficient size at the away markets to execute the AON order at 1.20 (and assuming the AON order is eligible for routing), the AON order will enter the EDGX Options Book and rest at a bid of 1.15 (pursuant to the Price Adjust process described above, an AON order will be ranked at one minimum price variation (in this case, 0.05) below the opposite side BBO).

Except as noted above, an exposed AON order will be processed in the same manner as any other order exposed through a SUM auction. If at the end of the exposure period there is sufficient size to satisfy the AON order, it will execute. If there is insufficient size, then the Exchange would route the AON order if there was sufficient size at an away market to satisfy the AON order (unless otherwise instructed by the User), as it would any remaining portion of any other exposed order (in the case of an AON order, the entire size would be remaining).[37] Like any AON order that routes to another options exchange, if there is sufficient size at the away market to satisfy the AON order once the AON reaches that market, the AON will execute. If there is no longer sufficient size when routed, the AON will return and rest on the EDGX Options Book. Similarly, if an AON order is not eligible to route, it will enter the EDGX Options Book (subject to the User's instructions).

The proposed reason to terminate the exposure period for an AON order early similarly will cause an exposure period to end, because if an order on the opposite side of the exposed order were displayed on the EDGX Options Book prior to the exposure period, the AON order would not have been exposed. For example, if the BBO and the NBBO was 1.00 x 1.20, and there was a non-AON order for 5 contracts resting at the 1.20 offer, an incoming AON order to buy 10 at 1.20 would not be exposed pursuant to SUM, because neither of the conditions in Rule 21.18(a) would be present). In this case, the AON order would enter the EDGX Options Book at a price of 1.15 (pursuant to the Price Adjust process as proposed above). Similar to the current reasons that would cause an exposure period to terminate early (see current Rule 21.18(d)), the proposed early termination provision will prevent an exposure period from continuing while conditions exist that would have prevented an exposure period from beginning if those conditions existed prior to the exposure period.

The proposed rule change amends Rule 21.19(e) to provide that AON orders will have last priority at price levels better than the stop price following the conclusion of an

[29] If the size at the away options exchange was not available when the AON order arrived at the away options exchange, it would return to the Exchange and continue to be processed, as is the case for any other order that routes to an away options exchange and is unable to execute. While not specified in Cboe Options rules, the Exchange understands this proposed change is the same as Cboe Options functionality.

[30] References to the ''prevailing NBBO'' mean the NBBO at the time of any execution.

[31] *See* Rule 21.18(c)(1) and (2).

[32] *See* Rule 21.18(d).

[33] *See* proposed Rule 21.18(c)(1) and (d).

[34] While not specified in Cboe Options rules, the Exchange understands this proposed change is the same as Cboe Options functionality.

[35] *See* proposed Rule 21.18(d)(3). While not explicitly stated in Rule 21.18(c), pursuant to Rule 21.9(a)(1), any order that does not execute in full after routing away may be posted (the unfilled balance) to the EDGX Options Book.

[36] This is because the incoming AON order would not be displayed at a price at or better than the NBBO.

[37] *See* Rule 21.18(c)(4) and (5).

Automated Improvement Mechanism (''AIM'') auction if there is sufficient size to satisfy the size of the AON order (with Priority Customer AON order trading ahead of non-Priority Customer AON orders). AON orders resting at the stop price will not trade against the Agency Order, even if the Initiating Member of an AIM auction selects last priority.[38] As discussed above, AON orders will have last priority at each price level. The Exchange notes there would be significant technical complexities associated with reprogramming priority within the System to provide AON orders with second to last priority in a specific (and likely uncommon situation), as would be required to permit AON orders to execute at the stop price, even if the Initiating Member selects last priority. The Exchange believes it would be rare for there to be a resting AON order at the stop price of an AIM Auction that could be satisfied by the remaining contracts of an Agency Order at that stop price, and thus the Exchange believes the proposed rule change will have a de minimis impact, if any, on the execution opportunities for resting AON orders.

The proposed rule change also provides that the System will exclude the size of any AON orders when determining the number of contracts the Initiating Order will execute against at each price level better than the stop price when the Initiating Member selects auto-match.[39] Due to the size contingency of an AON order, the System cannot determine whether there will be sufficient contracts remaining in the Agency Order to execute against any AON order at a price level until after execution of the applicable number of contracts against the Initiating Order and other contra-side interest. However, after those auto-match executions at that price level, the System will execute the Agency Order against any AON orders at that price level for which the size can be satisfied by the remaining contracts in the Agency Order.[40]

The Exchange proposes to make the AON instruction available for complex orders.[41] An AON complex order is a complex order that (like an AON simple order) is to be executed in its entirety or not at all.[42] An AON complex order may only execute following a complex order auction (''COA''),[43] and will not be eligible to rest in the complex order book (''COB'').[44] An incoming AON complex order will initiate a COA. If a Member marks an AON complex order to not initiate a COA (*i.e.,* as a do-no-COA order), or an AON complex order does not satisfy the COA eligibility criteria in Rule 21.20(d)(1), the System cancels the AON complex order.[45] The Exchange believes that, like AON simple orders, AON complex orders that would rest on the COB would have last priority, and would have even fewer execution opportunities because they would not be able to execute at the same price as resting interest until after both simple and complex order interest executed. Therefore, an AON complex order resting on the COB would have minimal execution opportunities given its size contingency. The Exchange believes there would be little value, in terms of executing opportunities, in permitting AON complex orders to rest in the COB.

At the conclusion of a COA of an AON complex order, the AON complex order may only execute against COA responses and unrelated complex orders on the COB in price-time priority if there is sufficient size to satisfy the AON complex order. If there is insufficient size to satisfy the AON complex order at the conclusion of the COA, the System cancels the order.[46] AON complex orders may not Leg into the Simple Book to execute against individual orders in the legs because of the manner in which complex orders on EDGX execute following a COA.[47] Pursuant to current EDGX Rules for execution following a COA, a complex order will be allocated first in price priority and then at the same price to Priority Customer orders resting on the Simple Book, COA responses and unrelated complex orders on the COB in time priority, and remaining individual orders in the Simple Book (*i.e.,* non-Priority Customer), which will be allocated pursuant to Rule 21.8.[48]

The Simple Book and the COB are separate, and orders on each do not interact unless a complex order Legs into the Simple Book. As a result, the System is not able to calculate the aggregate size of COA responses and complex orders on the COB and the size of simple orders in the legs that comprise the complex strategy at each potential execution price (as executions may occur at multiple prices) prior to execution of an order following a COA. Following a COA, the System first looks to determine whether there are Priority Customer orders resting in the Simple Book at the final auction price (and in the applicable ratio). If there are, the System executes the complex order against those simple orders. Following that execution, the System then looks back at the COA responses and complex orders resting in the COB to determine whether there is interest against which the order can execute. If there is, the System executes the remaining portion of the complex order against that complex contra-side interest. Finally, if there is any size left, the System looks back at the Simple Book to determine whether any orders in the legs are able to trade against any remaining contracts in the complex order. If there is, the System executes the remaining portion of the complex order again against orders in the Simple Book. Because of this process, prior to execution against any Priority Customer orders, the System would not know whether there is sufficient aggregate interest in both the Simple book and COB to satisfy the entire size of the AON. Additionally, it is possible for a complex order to execute at multiple price levels. This

[38] *See* Rule 21.19(e)(1) and (5). The proposed rule change amends Rule 21.19(e)(1), which sets forth the priority of resting orders at the stop price, to state that AON orders will be excluded when the Agency Order executes against contra-side interest (after Priority Customer Orders, the specified percentage of the Initiating Order, and Priority Orders). Therefore, AON orders at the stop price will not execute at the stop price in any situation. While not specified in Cboe Options rules, the Exchange understands this proposed change is the same as Cboe Options functionality.

[39] *See* proposed Rule 21.19(e)(3). While not specified in Cboe Options rules, the Exchange understands this proposed change is the same as Cboe Options functionality.

[40] *See* proposed Rule 21.19(e)(3). After executions at price levels better than the stop price, including against AON orders for which the size can be satisfied at those price levels, if there are remaining contracts from the Agency Order at the stop price, those contracts will execute against contra-side interest as set forth in subparagraph (e)(1). While not specified in Cboe Options rules, the Exchange understands this proposed change is the same as Cboe Options functionality.

[41] *See* Cboe Options Rule 6.53C(b); *see also* Phlx Rule 1098(b)(v); and ISE Rule 722(b)(3). The proposed rule change amends Rule 21.20(b) to change references to the term ''User'' to ''Member'' to be consistent with the remainder of Rule 21.20, which only uses the term ''Member.''

[42] *See* proposed Rule 21.20(b)(6).

[43] *See* Rule 21.20(d).

[44] While not specified in Cboe Options rules, the Exchange understands AON complex orders on Cboe Options may only initiate a COA and will be cancelled if not executed following a COA (and thus are not eligible to rest in the Cboe Options COB). This is set forth in Cboe Options Regulatory Circular RG17–042 (March 24, 2017), available at *https://www.cboe.com/publish/RegCir/RG17-042.pdf.* Other options exchanges require AON complex orders to be IOC, and thus similarly do not permit AON complex orders to rest in a complex order book. It is not clear from their rules whether such orders may enter a complex order auction on those exchanges. *See, e.g.,* ISE Rule 722(b)(3).

[45] *See* proposed Rule 21.20(b)(2) and (d)(1).

[46] *See* proposed Rule 21.20(d)(7). Currently, after a COA, a complex order will execute first against Priority Customer orders resting on the Simple Book, then against COA responses and unrelated orders on the COB, and finally against remaining individual orders in the Simple Book. *See* Rule 21.20(d)(7).

[47] *See* proposed Rule 21.20(c)(2)(F) and (d)(7).

[48] *See* Rule 21.20(d)(7).

process would have to occur at each price level. Therefore, if the Exchange were to permit Legging of AON complex orders into the Simple Book, it would be possible for a partial execution to occur, which is inconsistent with the AON instruction. The Exchange notes there would be significant technical complexities associated with reprogramming priority within the System to permit AON complex orders to Leg into the Simple Book and provide AON orders with priority consistent with these standard priority principles. Only permitting an AON complex order to execute against COA responses and complex orders in the COB ensures the size contingency of the AON complex order can be satisfied.[49]

To ensure protection of orders on the Simple Book given this restriction on Legging, an AON complex order may only execute following a COA if it improves the then-current (*i.e.,* existing at the conclusion of the COA) synthetic Exchange best bid or offer (''SBBO'').[50] If there is insufficient size among COA responses and unrelated complex orders to satisfy the AON complex order following a COA, the System cancels the order.[51]

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.[52] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[53] 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)[54] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change protects investors because it provides them with an additional order instruction that may be applied to both simple and complex orders. This provides investors with additional flexibility and more control over their executions of both simple and complex orders on the Exchange. The proposed rule change also benefits investors by providing transparency regarding how the System will handle and execute AON orders, which handling and execution are consistent with the size contingency of AON orders. As noted above and below, the proposed definition and several other portions of the proposed rules are based on rules and current functionality of Cboe Options.[55]

The Exchange believes not permitting Users to apply the Post Only instruction to AON orders will protect investors, because it will maximize execution opportunities for AON orders. An AON order's size contingency, and the fact that AON orders will have last priority while resting in the EDGX Options Book, will provide AON orders resting on the EDGX Options Book with few opportunities for AON orders to receive an execution. For this reason, the Exchange believes there will be minimal investor demand for Post Only AON orders. This ensures that an AON order may execute upon entry if there is sufficient size resting on the EDGX Options Book. Additionally, as noted above, other exchanges do not permit AON orders to rest in the book at all (as they are required to be IOC).[56] Unlike those exchanges, the Exchange will permit AON orders to rest in the EDGX Options Book, and will merely not permit AON orders to only rest in the book. Cboe Options does not offer a Post Only instruction, and therefore, an AON order submitted to EDGX Options will be handled in the same manner as it would be handled on Cboe Options, as such an order would execute upon entry (if possible), route (if eligible), or enter the EDGX Options Book (subject to any User instructions).

The Exchange believes the proposed rule change to offer use of the MCN Modifier (and not the other MTP Modifiers) for AON orders protects investors, because it provides all investors with the option to apply match-trade prevention functionality to AON orders. The Exchange believes there will be little demand for the use of any MTP Modifiers on AON orders given that primarily retail investors submit AONs, and retail investors are unlikely to have interest on both sides of the market. Given this expected minimal demand, the Exchange believes offering one MTP Modifier for AON orders is sufficient. Additionally, the Exchange believes that MCN is the most appropriate MTP modifier for AON orders because an offering of other MTP modifier for investors would present significant technical complexities given the size contingency of AON orders and that MCN is the simplest modifier to implement from a System perspective.[57] The proposed rules provide investors with sufficient transparency regarding how the System will handle AON orders with MTP Modifiers, and Users may achieve other results manually if so desired. For example, if a User were to prefer to have a resting order with an MTP Modifier cancel and let the newer AON order rest, it could manually cancel the resting order and then resubmit the AON order. The Exchange has determined to handle an AON order with any other MTP Modifier as an MCN rather than cancel the AON, and the Exchange believes the proposed rules will protect investors because they provide investors with sufficient transparency regarding how the System will handle AON orders with MTP Modifiers. Additionally, Users may achieve other results manually if so desired.

Cboe Options offers match trade prevention only for market-makers, and thus the Cboe Options rules regarding AON orders contains no restrictions on the use of match trade prevention instructions, as it would only be available to market-makers that submit AON orders. Because the Exchange has match-trade prevention functionality available for all Users and not just Market-Makers, the Exchange believes it is appropriate to provide this functionality to all Users that submit AON orders and want match trade prevention functionality. The Exchange

[49] Cboe Options does not restrict AON orders from legging into its simple book. The priority on Cboe Options differs from the priority on EDGX Options (on Cboe Options, all orders on the simple book have priority over the complex book). However, another options exchange restricts AON orders from legging into the simple book during the complex order opening process, from the complex order book, and following a complex order price improvement auction (similar to COA). *See, e.g.,* Phlx Rule 1098(d)(ii)(C)(2), (e)(vi)(A), (e)(viii)(C)(3), and (f)(iii)(A). Phlx also only permits non-broker-dealer customers to submit AON complex orders. *See* Phlx Rule 1098(b)(v).

[50] *See* proposed Rule 21.20(c)(2)(E) and (d)(6).

[51] *See* proposed Rule 21.20(d)(7).

[52] 15 U.S.C. 78f(b).

[53] 15 U.S.C. 78f(b)(5).

[54] *Id.*

[55] *See* Cboe Options Rules 6.53(i) and 6.44, Interpretations .02 and .03; *see also* ISE Rule 715(c); and NOM Chapter VI, section 1(e)(10).

[56] *See, e.g.,* ISE Rule 715(c); NOM Chapter VI, section 1(e)(10); and Phlx Rule 1066(c)(4).

[57] Additionally, the Decrement and Cancel MTP Modifier is inconsistent with an AON order, because it may result in partial execution of an order.

believes offering one MTP Modifier is sufficient given that non-market-makers on Cboe Options currently have no match-trade prevention functionality available for AON orders.

The Exchange believes the proposed Price Adjust process with respect to AON orders will protect investors, because it will rest an AON order on the EDGX Options Book at an executable price (*i.e.,* a price that locks or is one minimum price variation away from the new Protected Quotation or AON resting on the EDGX Options Book at or better than the Exchange's BBO) while preventing trade-throughs as the market changes and protecting non-AON orders resting on the opposite side of the EDGX Options Book. The proposed process will generally re-price the incoming (and thus later arriving order), which is consistent with the current Price Adjust process. However, the proposed rule change will reprice a resting AON order rather than an incoming non-AON order, because AON orders have last priority (as discussed below) and are not displayed, and thus should not cause the price of a non-AON order to reprice. Repricing an AON order one minimum price variation away from the price of a resting non-AON order is consistent with the repricing that applies to non-AON orders that lock or cross the opposite side NBBO.

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, because it is consistent with linkage rules. AON orders will not be part of the EDGX BBO, and repricing an AON order to lock the Protected Quotation of an away market or a resting (and nondisplayed) AON order on the EDGX Options Book at a price at or better than the Exchange's BBO will, therefore, not result in a displayed locked market in accordance with linkage rules.[58] The Exchange believes the proposed rule change is a reasonable application of the current Price Adjust process to avoid displaying a locked or crossed market and to prevent trade-throughs while making AON orders resting on the EDGX Options Book available for execution at executable prices (*i.e.,* a price that locks (but not crosses) a Protected Quotation of another options exchange or another AON resting on the EDGX Options Book, but not a price that locks or crosses a Protected Quotation on the EDGX Options Book. The proposed process will generally re-price the incoming (and thus later arriving order), which is consistent with the current Price Adjust process. However, the proposed rule change will reprice a resting AON order rather than an incoming non-AON order, because AON orders have last priority (as discussed above) and are not displayed or protected, and thus should not cause the price of an incoming non-AON order to reprice.

Cboe Options does not have functionality that corresponds to the Price Adjust process. Therefore, an AON order that enters the Cboe Options book may rest at a price that locks or crosses the Cboe Options market or an away market (and thus, it is not novel or unique to permit an AON order to rest at a price that locks or crosses the Exchange's market or an away market, as the proposed rule change permits). As demonstrated above, even though the proposed rule change does not permit an AON order to rest at a price that crosses an away market or an AON order on the EDGX Options Book, or that locks or crosses a Protected Quotation on the EDGX Options Book, the Price Adjust process as proposed will ultimately create the same potential execution for an AON order resting on the EDGX Options Book that would otherwise occur for an AON order resting on the Cboe Options Book, and in some cases may result in price improvement for an AON.

Additionally, while the current Price Adjust process does not permit an incoming order to rest at a price that locks a Protected Quotation on the Exchange or an away options exchange, the display-price sliding process on BZX Options does permit an incoming order to be ranked and eligible for execution at a locking price.[59] Pursuant to the BZX display-price sliding process, an order that, at the time of entry, would lock or cross a Protected Quotation of another options exchange will be ranked at the locking price in the BZX Options Book and displayed by the System at one minimum price variation below [sic] the current opposite-side NBBO. While an AON order, as proposed, will not be displayed at any price on the Exchange (as an AON order is never displayed), it will be ranked at a price that locks a Protected Quotation of an away market (and a resting AON order on the Exchange).

Recently, NYSE Arca, Inc. (''Arca'') adopted order types called the Repricing Liquidity Adding Order (''RALO'') and the Repricing Post No Preference Order (''RPNP'').[60] While these are different order types than an AON, pursuant to the repricing process, if either of these orders would not be able to trade upon entry (for example, because the RALO would take liquidity or display at a price that locks or crosses any interest on the Exchange or the NBBO), it would be displayed at one minimum price variation below (above) such sell (buy) interest. However, it would have an undisplayed price at which it is eligible to trade. The displayed and nondisplayed prices would move as the market moves. Like these order types, an AON order will rest at an undisplayed price (which price will move as the market moves) at which it is eligible for execution (in accordance with linkage rules). However, an AON order will not have a displayed price, as it is never displayed (unlike an RALO or RPNP).

Therefore, it is not novel or unique to permit an order to be ranked at an undisplayed price on an exchange at a price that locks the best-priced quote of that exchange or an away exchange, at which price it is eligible for execution, and which price may be adjusted in response to changes in the market.

The proposed rule change to only route an AON order as a FOK to options exchanges with sufficient size to satisfy the AON order will remove impediments to and perfect the mechanism of a free and open market and a national market system, because it is consistent with linkage rules and current Cboe Options functionality.

The proposed rule change to not permit use of the Super Aggressive Re-Route instruction to AON orders is consistent with the proposed Price Adjust process, which provides that an AON order may rest at a price that locks the price of an away options exchange. This proposed change will remove impediments to and perfect the mechanism of a free and open market and a national market system, because it is consistent with linkage rules. The Super Aggressive Re-Route instruction provides that an order on the EDGX Options Book that subsequently locks or crosses the price of another options exchange, the System will route the order to that exchange to an AON order. This instruction conflicts with the proposed Price Adjust process for an AON order, which may enter the EDGX Options Book at a price that locks the price of another options exchange, which price is executable if subsequent contra-side interest is submitted to the Exchange.

[58] *See* Rule 27.3(a).

[59] *See* BZX Options Rule 21.1(h).

[60] *See* Securities Exchange Act Release No. 84737 (December 6, 2018), 83 FR 63919 (December 12, 2018) (SR–NYSEArca–2018–74) (order approving the proposed order types).

The proposed rule change will further remove impediments to and perfect the mechanism of a free and open market and a national market system, because it will handle resting AON orders that become subsequently locked by an away market in the same manner as Cboe Options handles resting AON orders that become subsequently locked by an away market. In both cases, AON orders will remain on the local respective book. However, the proposed rule change will benefit investors, because it provides a resting AON order that becomes subsequently crossed by an away market with an opportunity (if a User designated the order with the Aggressive Re-Route instruction) to route to the away market for execution. This execution opportunity is not currently available on Cboe Options, and thus a similar AON order would remain on the Cboe Options book.

The proposed rule change to exclude AON orders from participating in the Exchange's opening process will protect investors and promote just and equitable principles of trade, because it will provide for the opening of a series for trading as soon as possible and not delay the opening of a series to attempt to execute AON orders (which ultimately may not be able to execute). The Exchange believes not attempting to execute AON orders until after the Opening Process would have a de minimis impact, if any, on the time of execution of an AON order that is able to execute at the opening. The proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, because excluding AON orders from participating during the Opening Process is equivalent to Cboe Options excluding AON orders from participating in its opening process in classes in which it has not activated HAL, because the Exchange has not activated SUM during the Opening Process.[61]

The Exchange believes the proposed rule change regarding the priority and allocation of AON orders promotes just and equitable principles of trade, as it is reasonable for orders not displayed in the book to not receive priority over orders that are displayed, as this encourages market participants to display their best bids and offers, which may lead to enhanced liquidity and tighter markets. The Exchange believes an AON order must always be last in priority at each price level to ensure there is sufficient size to satisfy the condition of that order to trade in its entirety after all other orders at the same price have executed. The proposed priority for AON orders will remove impediments to and perfect the mechanism of a free and open market and national market system, because it is the same as the priority of AON orders on Cboe Options.[62]

The Exchange believes the proposed rule change regarding the handling of AON orders exposed pursuant to SUM will protect investor, because it will provide AON orders with execution opportunities when the Exchange is not at the NBBO in a manner consistent with the current SUM process. The proposed rule change modifies the SUM process only to address an AON order's size contingency. The proposed rule change that the exposure period for an AON order will terminate when there is sufficient aggregate contra-side interest to satisfy the exposed AON order is consistent with the current SUM process, except it will not execute any incoming contra-side interest immediately against the exposed AON order, unless it has sufficient size (as occurs for an exposed non-AON order). This will prevent a partial execution in conflict with the AON size contingency. This proposed rule change is also the same as current Cboe Options HAL functionality. The proposed rule change regarding an early termination of the exposure period of an AON order is consistent with current reasons that will cause an exposure period to terminate, as it will prevent an exposure period from continuing while conditions exist that would have prevented an exposure period from beginning if those conditions existed prior to the exposure period. Except for these two proposed changes, an exposed AON order will be processed in the same manner as any other order exposed through SUM. The proposed rule change will remove impediments to and perfect the mechanism of free and open market and a national market system, because it ensures the entire AON order will trade at a price equal to or better than the NBBO in accordance with linkage rules.

The proposed allocation of AON orders following an AIM auction will protect investors, because it will provide Priority Customers and other displayed interest with priority over non-displayed orders and is consistent with the proposed general priority of AON orders described above. As noted above, the Exchange believes this encourages market participants to display their best bids and offers, which may lead to enhanced liquidity and tighter markets. While AON orders will not be eligible for execution at the stop price, the Exchange believes it would be rare for there to be a resting AON order at the stop price of an AIM Auction that could be satisfied by the remaining contracts of an Agency Order at that stop price. The Exchange notes there would be significant technical complexities associated with reprogramming priority within the System to provide AON orders with second to last priority in a specific (and likely uncommon situation), as would be required to permit AON orders to execute at the stop price, even if the Initiating Member selects last priority. The Exchange believes the proposed rule change will have a de minimis impact, if any, on the execution opportunities for resting AON orders. Similarly, due to the size contingency of an AON order, the System cannot determine whether there will be sufficient contracts remaining in the Agency Order to execute against any AON order at a price level until after execution of the applicable number of contracts against the Initiating Order and other contra-side interest. However, AON orders at each price level better than the stop price for which the size can be satisfied by the remaining contracts in the Agency Order will execute. The Exchange also believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, because it is the same as the allocation of AON orders following an AIM auction on Cboe Options.

The proposed rule change to require AON complex orders to COA and not permit them to rest in the COB or Leg into the Simple Book will protect investors, because it will provide AON complex orders with opportunities for execution and continue to protect orders on the Simple Book. As the Exchange noted above, there would be significant technical complexities associated with reprogramming priority within the System to permit AON complex orders to Leg into the Simple Book and provide AON orders with priority consistent with the standard priority principles described above. The Exchange notes that other options exchange do not permit AON complex orders to rest in the complex order book[63] or to leg into

[61] *See* Cboe Options Rule 6.2(c)(1)(B). Additionally, Cboe Options' opening process is an auction and thus significantly different than the Exchange's Opening Process, which is a cross at a valid price as set forth in Rule 21.7.

[62] *See* Cboe Options Rules 6.44, Interpretation and Policy .01 and 6.45(a)(v)(D); *see also* Cboe Options Rule 6.44, Interpretation and Policy .02.

[63] *See, e.g.,* ISE Rule 722(b)(3) (which requires AON complex orders to be submitted as IOC orders). While not specified in Cboe Options rules,

the simple book.[64] In addition, as described above, the proposed rule change protects resting Leg market interest because AON complex orders may not execute unless they improve the SBBO at the conclusion of a COA.

As noted above, the proposed rule change will remove impediments to and perfect the mechanism of free and open market and a national market system, because other options exchanges offer similar functionality.[65] Additionally, as discussed above, the proposed rule change will benefit investors, because it provides additional detail on which the rules of other exchanges are silent, such as detail regarding routing and handling during auctions. The Exchange believes the proposed application of Exchange functionality to AON orders (some of which is not available on other exchanges) is consistent with current Exchange functionality. Additionally, any differences with respect to how that functionality will apply to AON orders have been proposed only due to the size contingency of an AON order and the fact that an AON order is not displayed. The Exchange believes that the proposed rule change will provide Users with transparency regarding how the System will handle their AON orders.

The proposed rule change will protect investors, because it will provide Users with additional flexibility to manage their orders on the Exchange, as well as increased functionality on the Exchange. This may encourage market participants to bring additional liquidity to the market, which benefits all investors. Additionally, this will provide Users with greater harmonization between the order handling instructions available among the Cboe Affiliated Exchanges. The proposed rule change is generally intended to align system functionality currently offered by the Exchange with Cboe Options functionality in order to provide a consistent technology offering for the Cboe Affiliated Exchanges. A consistent technology offering, in turn, will simplify the technology implementation, changes, and maintenance by Users of the Exchange that are also participants on Cboe Affiliated Exchanges. The proposed rule change would also provide Users with access to functionality that is generally available on options exchanges other than the Cboe Affiliated Exchanges,[66] which will provide Users with additional flexibility and increased functionality on the Exchange's System.

When Cboe Options migrates to the same technology as that of the Exchange and other Cboe Affiliated Exchanges, Users of the Exchange and other Cboe Affiliated Exchanges will have access to similar functionality on all Cboe Affiliated Exchanges. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because use of the AON order instruction on simple and complex orders will be optional and available to all Users. All Users may determine whether to apply an AON order instruction to the simple or complex orders they submit to the Exchange. The System will handle all AON orders submitted to the Exchange in the same manner in accordance with the proposed rule change. The Exchange believes the proposed priority and allocation of AON orders is reasonable, as it is consistent with current allocation principles that provide for displayed interest to trade ahead of nondisplayed interest, and ensures an AON order will only execute if there is sufficient size to satisfy its size contingency.

Additionally, the proposed rule change will not impose any burden intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because other options exchanges offer similar functionality, as discussed above.[67] The Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges. Additionally, the Exchange believes the proposed application of Exchange functionality (such as MTP Modifiers, SUM, routing instructions, and AIM) to AON orders is consistent with current Exchange functionality and modified such functionality only to account for the size contingency of an AON order and the fact that an AON order is not displayed, and believes that the proposed rule change will provide Users with additional transparency regarding how the System will handle their AON orders. The Exchange believes that the proposed rule change will relieve any burden on, or otherwise promote, competition, because it will permit the Exchange to offer Users similar functionality that is current available to market participants on other options exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[68] and Rule 19b–4(f)(6)[69] thereunder.[70]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

the Exchange understands this proposed change is the same as Cboe Options functionality.

[64] *See, e.g.,* Phlx Rule 1098(e)(vi)(A).

[65] *See, e.g.,* Cboe Options Rule 6.53(i); ISE Rule 715(c); PHLX Rule 1066(c)(4); NOM Chapter VI, Section 1(e)(10); and Arca Rule 6.62–O(d)(4) (AON simple orders); *see also* Cboe Options Rule 6.53C(b); Phlx Rule 1098(b)(v); and ISE Rule 722(b)(3) (AON complex orders).

[66] *Id.*

[67] *See, e.g.,* Cboe Options Rule 6.53(i); ISE Rule 715(c); PHLX Rule 1066(c)(4); NOM Chapter VI, Section 1(e)(10); and Arca Rule 6.62–O(d)(4) (AON simple orders); *see also* Cboe Options Rule 6.53C(b), Phlx Rule 1098(b)(v), and ISE Rule 722(b)(3) (AON complex orders).

[68] 15 U.S.C. 78s(b)(3)(A).

[69] 17 CFR 240.19b–4(f)(6).

[70] 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2019–017 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGX–2019–017. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGX–2019–017 and should be submitted on or before May 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[71]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07616 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85624; File No. SR–C2–2019–008]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot for Certain Options Market Rules That Are Linked to the Equity Market Plan To Address Extraordinary Market Volatility

April 11, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 9, 2019, Cboe C2 Exchange, Inc. (''Exchange'' or ''C2'') 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 C2 Exchange, Inc. (''C2'' or the ''Exchange'') is filing with the Securities and Exchange Commission (the ''Commission'') a proposed rule change to extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility. The text of the proposed rule change is attached as Exhibit 5 [sic].

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/ctwo/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[71] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the pilot to the close of business on October 18, 2019, for certain options market rules that are linked to the equity market Plan to Address Extraordinary Market Volatility (the ''Limit Up-Limit Down Plan'' or the ''Plan''). This change is being proposed in connection with a proposed amendment to the Limit Up-Limit Down Plan that would allow the Plan to continue to operate on a permanent basis (''Amendment 18'').

In an attempt to address extraordinary market volatility in NMS Stock, and, in particular, events like the severe volatility on May 6, 2010, U.S. national securities exchanges and the Financial Industry Regulatory Authority, Inc. (collectively, ''Participants'') drafted the Plan pursuant to Rule 608 of Regulation NMS and under the Act.[3] On May 31, 2012, the Commission approved the Plan, as amended, on a one-year pilot basis.[4] Though the Plan was primarily designed for equity markets, the Exchange believed it would, indirectly, potentially impact the options markets as well. Thus, the Exchange has previously amended and adopted Interpretation and Policy .01 to Rule 6.29, Interpretation and Policy .01 to Rule 6.32 and Rule 6.39 to ensure the option markets were not harmed as a result of the Plan's implementation and has implemented such rules on a pilot basis that has coincided with the pilot period for the Plan (the ''Options Pilots'').[5]

[3] *See* Securities Exchange Act Release No. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011) (File No. 4–631).

[4] *See* Securities and Exchange Act Release No. 67091 (May 31, 2012) 77 FR 33498 (June 6, 2012).

[5] *See* Securities Exchange Act Release Nos. 69345 (April 8, 2013), 78 FR 21985 (April 12, 2013) (SR–

The Commission recently published an Amendment 18, which would allow the Plan to operate on a permanent, rather than pilot, basis.[6] In connection with this change, the Exchange proposes to amend the Options Pilots to expire at the close of business on October 18, 2019—*i.e.,* six months after the expiration of the current pilot period for the Plan. Specifically, the Exchange proposes to amend Interpretation and Policy .01 to Rule 6.29, Interpretation and Policy .01 to Rule 6.32 and Rule 6.39 to untie the Options Pilot's effectiveness from that of the Plan and to extend the Options Pilot's effectiveness to the close of business on October 18, 2019. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs.

The Exchange does not propose any additional changes to Interpretation and Policy .01 to Rule 6.29, Interpretation and Policy .01 to Rule 6.32 and Rule 6.39. The Exchange believes the benefits to market participants from the Options Pilots should continue on a limited six month pilot basis after Commission approves the Plan to operate on a permanent basis. Assuming the Plan is approved by the Commission to operate on a permanent, rather than pilot, basis the Exchange intends to assess whether additional changes should also be made to the Options Pilots. Extending the Options Pilots for an additional six months should provide the Exchange and other national securities exchanges additional time to consider further amendments to their rules in light of proposed Amendment 18.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[7] in general, and Section 6(b)(5) of the Act,[8] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning rules for options markets adopted to coincide with the Plan. The Exchange believes that extending the Options Pilots for an additional six months would help assure that the rules subject to such Pilots are either similarly made permanent, amended or removed, following additional discussion and analysis by the Exchange and other national securities exchanges. The proposed rule change would also help assure that such rules are not immediately eliminated, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the Options Pilots should continue to be in effect on a pilot basis while the Exchange and the other national securities exchanges consider and develop a permanent proposal for such rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of the Options Pilots while the Exchange and other national securities exchanges consider further amendments to these rules in light of proposed Amendment 18. The Exchange understands that the other national securities exchanges will also file similar proposals to extend their respective pilot programs. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No comments were solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[12] 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 so that the proposed rule change may become effective and operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the current Options Pilots to continue uninterrupted, without any changes, while the Exchange and the other national securities exchanges consider and develop a permanent proposal for Options Pilots. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (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.

C2–2013–013) (amending certain options rules to coincide with the pilot period for the Plan, including Rule 6.39 and Interpretation and Policy .08 to Rule 6.15, which was later renumbered to Interpretation and Policy .01 to Rule 6.29); and 68769 (January 30, 2013), 78 FR 8213 (February 5, 2013) (amending Interpretation and Policy .03 to Rule 6.32, which was later renumbered to Interpretation and Policy .01, to coincide with the pilot period for the Plan).

[6] *See* Securities Exchange Act Release Nos. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (Amendment No. 18 Proposing Release).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6). 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.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–C2–2019–008 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–C2–2019–008. 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–C2–2019–008 and should be submitted on or before May 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–07618 Filed 4–16–19; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15927 and #15928; NEBRASKA Disaster Number NE–00074]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Nebraska

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Nebraska (FEMA–4420–DR), dated 04/05/2019.

Incident: Severe Winter Storm, Straight-line Winds, and Flooding.

Incident Period: 03/09/2019 through 04/01/2019.

DATES: Issued on 04/10/2019.

Physical Loan Application Deadline Date: 06/04/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 01/06/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Nebraska, dated 04/05/2019, is hereby amended to establish the incident period for this disaster as beginning 03/09/2019 through 04/01/2019.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2019–07653 Filed 4–16–19; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15896 and #15897; Nebraska Disaster Number NE–00073]

Presidential Declaration Amendment of a Major Disaster for the State of Nebraska

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Nebraska (FEMA—4420—DR), dated 03/21/2019.

Incident: Severe Winter Storm, Straight-line Winds, and Flooding.

Incident Period: 03/09/2019 through 04/01/2019.

DATES: Issued on 04/10/2019.

Physical Loan Application Deadline Date: 05/20/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 12/23/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of NEBRASKA, dated 03/21/2019, is hereby amended to establish the incident period for this disaster as beginning 03/09/2019 through 04/01/2019. All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2019–07655 Filed 4–16–19; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15896 and #15897; NEBRASKA Disaster Number NE–00073]

Presidential Declaration Amendment of a Major Disaster for the State of Nebraska

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Nebraska (FEMA–4420–DR), dated 03/21/2019.

Incident: Severe Winter Storm, Straight-line Winds, and Flooding.

Incident Period: 03/09/2019 and continuing.

DATES: Issued on 04/10/2019.

Physical Loan Application Deadline Date: 05/20/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 12/23/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business

Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Nebraska, dated 03/21/2019, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Antelope, Boyd, Burt, Cuming, Hall, Howard, Madison, Nance, Pierce, Platte, Saline, Stanton.

Contiguous Counties (Economic Injury Loans Only):

Nebraska: Fillmore, Gage, Hamilton, Jefferson, Keya Paha, Merrick, Rock, Thayer.

South Dakota: Gregory

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2019–07654 Filed 4–16–19; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2018–0031]

Privacy Act of 1974; Matching Program

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a new matching program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces new matching program with the Department of Defense, Defense Manpower Data Center (DoD/DMDC).

This computer matching agreement (agreement) sets forth the terms, conditions, and safeguards under which DoD/DMDC will disclose to SSA data to verify information provided to SSA by applicants, beneficiaries, and recipients of Supplemental Security Income (SSI) payments and Special Veterans Benefits (SVB). The SSI and SVB recipient/beneficiary provides information about eligibility/entitlement factors (*e.g.,* income, reosurces, living arrangements). SSA obtains additional information, as necessary, before making any determinations of eligibility/payment or entitlement/benefit amounts or adjustments thereto. Military retirement payments to SSI recipients and SVB beneficiaries include retired members, or their survivors, of the Uniformed Services, *i.e.,* Army; Navy; Air Force; Marine Corps; Coast Guard; and the Commissioned Corps of the National Oceanic and Atmospheric Administration. SSA will accomplish this task by computer matching with DoD/DMDC.

DATES: The deadline to submit comments on the proposed matching program is 30 days from the date of publication of this notice in the **Federal Register**. The matching program will be applicable on March 15, 2019, or once a minimum of 30 days after publication of this notice has elapsed, whichever is later. The matching program will be in effect for a period of 18 months.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 966–0869, writing to Mary Ann Zimmerman, Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, G–401 WHR, 6401 Security Boulevard, Baltimore, MD 21235–6401, or emailing *Mary.Ann.Zimmerman@ssa.gov.* All comments received will be available for public inspection by contacting Ms. Zimmerman at this street address.

FOR FURTHER INFORMATION CONTACT: Interested parties may submit general questions about the matching program to Mary Ann Zimmerman, Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, by any of the means shown above.

SUPPLEMENTARY INFORMATION: None.

Mary Zimmerman,

Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

Participating Agencies: SSA and DoD/DMDC.

Authority for Conducting the Matching Program: The legal authority for this match is sections 806(b) and 1631(e)(1)(B) and (f) of the Social Security Act (Act) (42 U.S.C. 1006(b) and 1383(e)(1)(B) and (f)). SSA's legal authority to disclose data to DoD/DMDC is section 1106(a) of the Act (42 U.S.C. 1306(a)) and section (b)(3) of the Privacy Act (5 U.S.C. 552a(b)(3)).

Purpose(s): This matching program establishes the conditions under which DoD/DMDC will disclose to SSA data to verify information provided to SSA by applicants, beneficiaries, and recipients of Supplemental Security Income (SSI) payments and Special Veterans Benefits (SVB). The SSI and SVB recipient/beneficiary provides information about eligibility/entitlement factors (*e.g.* income, resources, living arrangements). SSA obtains additional information, as necessary, before making any determinations of eligibility/payment or entitlement/benefit amounts or adjustments thereto. Military retirement payments to SSI recipients and SVB beneficiaries include retired members, or their survivors, of the Uniformed Services, *i.e.,* Army; Navy; Air Force; Marine Corps; Coast Guard; and the Commissioned Corps of the National Oceanic and Atmospheric Administration. SSA will accomplish this task by computer matching with DoD/DMDC.

Categories of Individuals: The individuals whose information is involved in this matching program are those SSI recipients and SVB beneficiaries consisting solely of retired members, or their survivors, of the Uniformed Services, *i.e.,* Army; Navy; Air Force; Marine Corps; Coast Guard; and the Commissioned Corps of the National Oceanic and Atmospheric Administration.

Categories of Records: SSA's finder file will contain approximately 10 million records extracted from the Supplemental Security Income Record and Special Veterans Benefits file. The DoD/DMDC response file contains approximately 800 records concerning retired Uniformed Service members or their survivors entitled to Survivor Benefits.

System(s) of Records: SSA will disclose records from the following systems of records: ''Supplemental Security Income Record and Special Veterans Benefits,'' 60–0103, last fully published at 71 **Federal Register** (FR) 1830 (January 11, 2006), and amended at 72 FR 69723 (December 10, 2007), 83 FR 31250–31251 (July 3, 2018), and 83 FR 54969 November 1, 2018). DoD/DMDC will disclose records from DMDC 01, entitled ''Defense Manpower Data Center Data Base,'' last published at 76 FR 72391 (November 23, 2011), pursuant to routine use 5.b.

[FR Doc. 2019–07659 Filed 4–16–19; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent of Waiver With Respect to Land; Akron Fulton Airport, Akron, Ohio

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA is considering a proposal to change 9.41 acres of airport land from aeronautical use to non-aeronautical use and to authorize the lease of airport property located at Akron Fulton Airport, Akron, Ohio. The aforementioned land is not needed for aeronautical use.

The property is located southeast of the airfield west of Derby Downs Drive. The property is designated as aeronautical use however there is no aeronautical use. During special events the property is used for parking. The proposed non-aeronautical use of the property is for the development of a Commercial Driver's License training facility to be operated by Stark State College. The City of Akron will lease the property to Stark State College.

DATES: Comments must be received on or before May 17, 2019.

ADDRESSES: Documents are available for review by appointment at the FAA Detroit Airports District Office, Evonne M. McBurrows, Program Manager, 11677 South Wayne Road, Romulus, Michigan, 48174 Telephone: (734)229–2945/Fax: (734)229–2950 and City of Akron, Department of Public Service, Akron Engineering Bureau, 166 South High Street, Room 701, Akron, Ohio, 44308, and (330)375–2355. Written comments on the Sponsor's request must be delivered or mailed to: Evonne M. McBurrows, Program Manager, Federal Aviation Administration, Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174, Telephone Number: (734)229–2945/FAX Number: (734)229–2950.

FOR FURTHER INFORMATION CONTACT: Evonne M. McBurrows, Program Manager, Federal Aviation Administration, Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174. Telephone Number: (734)229–2945/ FAX Number: (734)229–2950.

SUPPLEMENTARY INFORMATION: In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

The property is designated as aeronautical use however the land is not needed for aeronautical purposes. The City Akron is proposing to lease the property at a fair market value to Stark State College for the development of a Commercial Drivers Licensing Facility.

The disposition of proceeds from the lease of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999 (64 FR 7696).

This notice announces that the FAA is considering the release of the subject airport property at the Akron Fulton Airport, Akron, Ohio from its obligations to be maintained for aeronautical purposes. Approval does not constitute a commitment by the FAA to financially assist in the change in use of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA.

Legal Description

Situated in the City of Akron, County of Summit, State of Ohio, known as being part of Lot 4 and Lot 5, Tract 4, formerly Springfield Township, also known as being part of a record 89.62 acre parcel conveyed to the City of Akron, in O.R. 1814, Pg. 393 of the Summit County Recorder's records, also being part of a record 8.60 acre parcel conveyed to the City of Akron, in O.R. 1347, Pg. 453 of the Summit County Recorder's records, and also known as being part of a record 60.09 acre parcel conveyed to the City of Akron, in O.R. 1455, Pg. 471 of the Summit County Recorder's records, and is further bounded and described as follows:

Commencing at the centerline intersection of Triplett Boulevard (Width Varies) and George Washington Boulevard (Width Varies) as shown in Plat Cabinet M, Pg. 136–139 of the Summit County Recorders Records;

thence, South 00°20′48″ West, along the centerline of said George Washington Boulevard, a distance of 201.69 feet to a point of curvature;

thence, continuing along the centerline of said George Washington Boulevard, along a curve to the right, with a radius of 1000.00 feet, and arc length of 196.00 feet, a chord bearing of South 05°57′42″ West, and chord distance of 195.68 feet to a point of tangency;

thence, South 11°34′35″ West, continuing along the centerline of said George Washington Boulevard, a distance of 1201.59 feet to a ⅝″ iron pin found (capped ''City of Akron Engineer'') in a monument box at a point of curvature;

thence, continuing along the centerline of said George Washington Boulevard, along a curve to the right, with a radius of 1199.76 feet, and arc length of 386.72 feet, a chord bearing of South 20°48′38″ West, and chord distance of 385.05 feet to a point;

thence, South 59°57′20″ East, a distance of 50.00 feet to a ⅝″ iron pin found (capped ''City of Akron Engineer''), said point being the southeast comer of a record 6.8736 acre parcel conveyed to the City of Akron, in Reception No. 56383269 of the Summit County Recorder's records and the northeast comer of a parcel conveyed to The University of Akron in O.R. 196, Pg. 279 of the Summit County Recorder's records, on the westerly right-of-way of said George Washington Boulevard;

thence, North 56°40′01″ West, along the southerly line of said 6.8736 acre City of Akron parcel, and along the northerly line of said parcel conveyed to The University of Akron, a distance of 263.45 feet to a point;

northerly line of said University of Akron parcel, a distance of 97.21 feet to a point;

thence, North 06°31′41″ East, along the southerly line of said 6.8736 acre City of Akron parcel, and the northerly line of said University of Akron parcel, a distance of 42.17 feet to a point;

thence, North 41°20′54″ West, along the southerly line of said 6.8736 acre City of Akron parcel, and the northerly line of said University of Akron parcel, a distance of 47.61 feet to a point;

thence, North 35°26′18″ West, along the southerly line of said 6.8736 acre City of Akron parcel, and the northerly line of said University of Akron parcel, a distance of 51.02 feet to a point;

thence, North 30°00′22″ West, along said 6.8736 acre City of Akron parcel, a distance of 143.64 feet to a point;

thence, North 15°29′16″ East, along said 6.8736 acre City of Akron parcel, a distance of 129.84 feet to a point, witness a ¾″ iron pin found North 41 °42′04″ West, 0.34 feet;

thence, North 54°31′46″ West, a distance of 170.35 feet to a point on the centerline of Derby Downs Drive (No Defined Width) as recorded in the ''Land Transfer & Parking Lease Plat Rubber Bowl Property'' Drawing No. A–8880 of the City of Akron Engineers Records;

thence along the centerline of said Derby Downs Drive the following courses:

Thence, South 21 °26′08″ West, a distance of 50.59 feet to a point;

thence, South 23°43′28″ West, a distance of 51.03 feet to a point;

thence, South 26°13′16″ West, a distance of 50.63 feet to a point;

thence, South 29°02′00″ West, a distance of 50.30 feet to a point;

thence, South 30°54′24″ West, a distance of 50.14 feet to a point;

thence, South 33°59'3711 West, continuing along the centerline of said Derby Downs Drive, a distance of 37.83 feet to a Railroad Spike Set, which is the TRUE PLACE OF BEGINNING for the following described parcel;

thence along the centerline of said Derby Downs Drive the following courses:

thence, South 33°59′3711 West, a distance of 12.18 feet to a point;

thence, South 35°01′34″ West, a distance of 50.00 feet to a point;

thence, South 35°27′16″ West, a distance of 100.00 feet to a point;

thence, South 35°18′41″ West, a distance of 200.00 feet to a point;

thence, South 34°58′04″ West, a distance of 100.00 feet to a point;

thence, South 34°15′06″ West, a distance of 100.01 feet to a point;

thence, South 33°57′52″ West, a distance of 100.03 feet to a point;

thence, South 33°27100″ West, a distance of 100.05 feet to a point;

thence, South 32°45149″ West, a distance of 100.09 feet to a point;

thence, South 32°37′14″ West, a distance of 100.11 feet to a point;

thence, South 31°47132″ West, a distance of 100.18 feet to a point;

thence, South 30°56110″ West, a distance of 15.54 feet to a Railroad Spike Set;

thence, North 28°43143″ West, a distance of 689.44 feet to a ⅝″ iron pin set (capped ''Lewis Land Professionals'');

thence, North 61°10131″ West, along the Akron-Fulton Municipal Airport security fence, a distance of 879.05 feet to a ⅝″ iron pin set (capped ''Lewis Land Professionals'');

thence, South 50°35132″ East, a distance of 212.13 feet to the Place of Beginning, containing 9.4099 acres of land, more or less, as surveyed by Joseph A. Burgoon, Registered Surveyor No. 8325 in October 2018, for and on behalf of Lewis Land Professionals, Inc.

The Basis of Bearing for this description is Grid North of the Ohio State Plane Coordinate System, NAD83 (2011), North Zone as established by GPS observations.

Issued in Romulus, Michigan, on April 5, 2019.

John L. Mayfield, Jr.,

Manager, Detroit Airports District Office, FAA, Great Lakes Region.

[FR Doc. 2019–07686 Filed 4–16–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2019–20]

Petition for Exemption; Summary of Petition Received; Alaska Airlines

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before May 7, 2019.

ADDRESSES: Send comments identified by docket number FAA–2019–0167 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Brenda Robeson, (202) 267–4712, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on April 12, 2019.

Brandon Roberts,

Deputy Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2019–0167

Petitioner: Alaska Airlines

Section(s) of 14 CFR Affected: 121.434(c)(1)(ii)

Description of Relief Sought: The petitioner requests an Exemption from Federal Aviation Regulation (FAR) § 121.434(c)(1)(ii) of Title 14, Code of Federal Regulations. The exemption would allow Alaska Airlines to substitute a qualified and authorized check airman or Aircrew Program Designee (APD), in place of an FAA inspector to observe a qualifying pilot in command (PIC), while the PIC is performing prescribed duties during at least one flight leg that includes a takeoff and a landing. Furthermore, the observing check airman can be the same check airman that is conducting the operating experience check.

[FR Doc. 2019–07689 Filed 4–16–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2019–17]

Petition for Exemption; Summary of Petition Received; Aerones Inc.

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the

legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before May 7, 2019.

ADDRESSES: Send comments identified by docket number FAA–2019–0011 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 683–7788, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on April 8, 2019.

Brandon Roberts,

Deputy Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2019–0011

Petitioner: Aerones Inc.

Section(s) of 14 CFR Affected: §§ 107.1(a) & (b)(3); & 107.3.

Description of Relief Sought: The proposed exemption, if granted, would permit commercial operations of unmanned aircraft systems (UAS) over 55 pounds for the purposes of cleaning, servicing and maintaining infrastructure in the National Airspace System. Flight operations will use the proprietary UAS technology developed by Aerones Inc., a tethered aircraft that would fly no higher than 100 above ground level.

[FR Doc. 2019–07690 Filed 4–16–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on a Land Release Request at Hudson Valley Regional Airport (POU), Wappingers Falls, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport land.

SUMMARY: The FAA proposes to rule and invites public comment on the application for a release for disposal of approximately 14.79 acres of federally obligated airport property at Hudson Valley Regional Airport, Wappingers Falls, Dutchess County, NY, from the National Emergency Use Provision contained in the Quitclaim Deed, dated April 4, 1947, and from conditions, reservations, and restrictions contained in Airport Improvement Program grants that would restrict the use of said land to aeronautical purposes. This acreage is a portion of land that was transferred from the United States of America to Dutchess County by the War Asset Administration under the provisions of the Surplus Property Act of 1944. The release will allow the airport to generate revenue through a land lease for a solar farm. The proposed use of land after the release will be compatible with the airport and will not interfere with the airport or its operation.

DATES: Comments must be received on or before May 17, 2019.

FOR FURTHER INFORMATION CONTACT: Comments on this application may be mailed or delivered to the FAA at the following address: Evelyn Martinez, Manager, Federal Aviation Administration, New York Airports District Office, **Federal Register** Comment, 1 Aviation Plaza, Jamaica, NY 11434. In addition, one copy of the comment submitted to the FAA must be mailed or delivered to David Whalen, Deputy Commissioner, Dutchess County—Department of Public Works, 626 Dutchess Turnpike, Poughkeepsie, NY 12603.

SUPPLEMENTARY INFORMATION: In accordance with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Public Law 106–181 (Apr. 5, 2000; 114 Stat. 61), this notice must be published in the **Federal Register** 30 days before the Secretary may waive any condition imposed on a federally obligated airport by surplus property conveyance deeds or grant agreements. The following is a brief overview of the request.

The county of Dutchess requested a release from grant assurance obligations to allow a land-use change in use for other than aeronautical purposes of approximately 14.79 acres of airport property at Hudson Valley Regional Airport. On April 3, 1947, the airport property was deeded to Dutchess County by the War Assets Administration via a Quitclaim Deed under the provisions of the Surplus Property Act of 1944. The Quitclaim Deed contained a National Emergency Use Provision (NEUP) allowing the United States of America the right to make sure of the land during any national emergency as declared by the President of Congress. On April 3, 2019, the Department of Defense concurred with the FAA to release the NEUP on the 14.79 acres of airport property not currently required for aeronautical purposes.

Dutchess County has entered into a lease and Solar Power Purchase Agreement with a solar power company to lease land that would allow a ground-mounted solar array to be constructed at Hudson Valley Regional Airport. The FAA has studied the site and has determined the installation will not affect the utility of the airport. The airport will retain ownership of the 14.79 acres and will be required to receive fair market value rent for the length of the agreement. The rental income will be devoted to airport operations and capital projects, and the airport will further benefit from electricity costs savings from the agreement. The proposed use of the property will not interfere with the airport or its operation.

Issued in Jamaica, New York on April 5, 2019.

Evelyn Martinez,

Manager, New York Airports District Office.

[FR Doc. 2019–07598 Filed 4–16–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2019–19]

Petition for Exemption; Summary of Petition Received; Brittan Evan Kirk

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before May 7, 2019.

ADDRESSES: Send comments identified by docket number FAA–2019–0137 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Brent Hart (202) 267–4034, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on April 9, 2019.

Brandon Roberts,

Deputy Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2019–0137.
Petitioner: Brittan Evan Kirk.
Section(s) of 14 CFR Affected: 61.55(i).
Description of Relief Sought: The petitioner is seeking an exemption from § 61.55(i) to allow the petitioner to obtain a Second-In-Command (SIC) pilot type rating in an ex-British Airways Concorde flight simulator. The petitioner seeks relief from the requirement that the Concorde flight simulator must be used in accordance with an approved training course conducted by a 14 CFR part 142 training center.

[FR Doc. 2019–07687 Filed 4–16–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Aviation Rulemaking Advisory Committee (ARAC) meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the ARAC.

DATES: The meeting will be held on June 20, 2019, starting at 1:00 p.m. Eastern Standard Time. Arrange oral presentations by May 31, 2019.

ADDRESSES: The meeting will take place at the Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Lakisha Pearson, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, telephone (202) 267–4191; fax (202) 267–5075; email *9-awa-arac@faa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), we are giving notice of a meeting of the ARAC taking place on June 20, 2019.

The Draft Agenda includes:

1. Status Report from the FAA
2. Status Updates:
   a. Active Working Groups
   b. Transport Airplane and Engine (TAE) Subcommittee
3. Recommendation Reports
4. Any Other Business

The Agenda will be published on the FAA Meeting web page (*https://www.faa.gov/regulations_policies/rulemaking/npm/*) once it is finalized.

Attendance is open to the interested public but limited to the space available. Please confirm your attendance with the person listed in the **FOR FURTHER INFORMATION CONTACT** section no later than May 31, 2019. Please provide the following information: full legal name, country of citizenship, and name of your industry association, or applicable affiliation. For Foreign National attendees, please also provide your country of citizenship, date of birth, and passport or diplomatic identification number with expiration date.

For persons participating by telephone, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section by email or phone for the teleconference call-in number and passcode. Callers are responsible for paying long-distance charges.

With the approval of the ARAC Chairman, members of the public may present oral statements at the meeting. There will be no more than 15 minutes allotted on the agenda for oral statements. Oral statements are limited to two minutes per speaker. The public must arrange by May 31, 2019, to present oral statements at the meeting. Members of the public may present a written statement to the committee at any time by providing 25 copies to the Designated Federal Officer, or by bringing the copies to the meeting.

If you are in need of assistance or require a reasonable accommodation for this meeting, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. Sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC, on April 12, 2019.

Lirio Liu,

Designated Federal Officer, Aviation Rulemaking Advisory Committee.

[FR Doc. 2019–07688 Filed 4–16–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2019–0014]

Agency Information Collection Activities: Request for Comments for a new Information Collection Request

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that FHWA will submit the collection of information described below to the Office of Management and Budget (OMB) for review and comment. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on February 7, 2019. The PRA submission describes the nature of the information collection and its expected cost and burden.

DATES: Please submit comments by May 17, 2019.

ADDRESSES: You may submit comments identified by DOT Docket ID Number FHWA 2019–0014, by any of the following methods:

Website: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: R. Kevin. O'Grady 202–366–2030 or Arnold Feldman, 202–366–2028, Office of Real Estate Services, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 7 a.m. to 3 p.m. ET, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: An Analysis of the Use of Waiver Valuations by Federal, State and Local Public Agencies (LPAs): Identifying and Measuring Outcomes That Could Further Streamline Project Delivery.

Background: Waiver valuation is a key component of the ''Right-of-Way Flexibilities'' that were an FHWA Every Day Counts (EDC) initiative. This research will provide a detailed analysis of the current state of the waiver valuation program nationwide. It will identify issues, practices, or misinformation/misunderstanding that limit the implementation of the waiver valuation program and reduce its ability to streamline processes. The research will document the steps that are taken to improve implementation of waivers and enhance savings of administrative costs. The research also will identify additional opportunities for improving the existing processes/practices for waiver valuations that can provide significant savings in time and money and provide greater flexibility to acquiring agencies in delivery of their overall right-of-way acquisition program.

Respondents: Each of the 52 state DOT's (for the 50 states, the District of Columbia, and Puerto Rico) will be asked to respond to a written questionnaire. A subset of the state DOT's will be asked to participate in follow-up interviews.

Frequency: One-time survey.

Estimated Average Burden per Response: Approximately 2 hours per survey response and 1 hour per interview.

Estimated Total Annual Burden Hours: Approximately 120 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: April 11, 2019.

Michael Howell,

Information Collection Officer.

[FR Doc. 2019–07662 Filed 4–16–19; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Office of Inspector General, Department of Veterans Affairs (VA).

ACTION: Notice of modified system of records.

SUMMARY: As required by the Privacy Act of 1974, notice is hereby given that the Department of Veterans Affairs (VA) is amending the system of records known as ''The Office of Inspector General Management Information System (MIS)—VA'' (71VA53), by amending the Routine Uses and Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records within the System.

DATES: Comments on this modified system of records must be received no later than 30 days after date of publication in the **Federal Register**. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the modified system of records will become effective a minimum of 30 days after date of publication in the **Federal Register**. If VA receives public comments, VA shall review the comments to determine whether any changes to the notice are necessary.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov*; by mail or hand-delivery to Director, Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW, Room 1064, Washington, DC 20420; or by fax to (202) 273–9026 (not a toll-free number). Comments should indicate that they are submitted in response to ''The Office of Inspector General Management Information System (MIS)—VA'' (71VA53). Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, comments may be viewed online at *www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Christopher Connor, Chief, Information Release Office (50CI), Office of Inspector General, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, 202–461–4269; or fax comments to (202) 495–5859. Amy L. Rose, VA Privacy Service, Office of Information Security (OIS), Office of Information and Technology (OIT), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 632–7497.

SUPPLEMENTARY INFORMATION: This publication is in accordance with the Privacy Act requirement that agencies publish their amended system of records in the **Federal Register** when there is revision, change, or addition. The VA Office of Inspector General (OIG) has reviewed its system of records notices and has determined its record system, ''The Office of Inspector General Management Information System (MIS)—VA'' (71VA53), should be amended to reflect evolving technology and procedures, to conform to current practice, and to reflect current authorities. The storage practices section will now reflect that data is stored in VA OIG's new Enterprise Management System (EMS) database in addition to the legacy Master Case Index (MCI) database. The Routine Uses are amended to conform to changes recommended by OMB.

The Senior Agency Official for Privacy, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. André Horton, Deputy Chief Information Security Officer, Department of Veterans Affairs approved this document on January 8, 2019 for publication.

Dated: April 12, 2019.

Amy L. Rose,

Program Analyst, VA Privacy Service, Department of Veterans Affairs.

71VA53

SYSTEM NAME:

The Office of Inspector General Management Information System (MIS)—VA (71VA53).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Department of Veterans Affairs (VA), Office of Inspector General (OIG), Office of Assistant Inspector General for Management and Administration (53), 810 Vermont Avenue NW, Washington, DC 20420.

SYSTEM MANAGER:

Assistant Inspector General for Management and Administration (53), Department of Veterans Affairs, Office of Inspector General, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–4760, *VAOIG.ChiefInformationOfficer@va.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, Public Law (Pub L.) 95–452, 5 U.S.C. App., as amended through Public Law 115–254 (IG Act).

PURPOSE(S) OF THE SYSTEM:

The purpose of this system of records is to compile records and information about individual OIG employees for various management and human resources objectives. Case tracking data is used to measure employee productivity. Employee contact information is maintained to allow employees to be contacted in emergency situations and includes third-party information provided by the employee as an alternate emergency contact. Training records are used to make certain the employees complete required training assignments and to maintain a record of each employee's training activities for career development and continuing professional education requirements.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The following category of individuals will be covered by the system: All personnel assigned to VA Office of Inspector General (OIG) and any third-party identified by those employees as an emergency contact.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Management Information System contains the following categories of records: Time and Attendance, Phone Directory, Awards, Training, Travel, and Personnel (which may include personnel suitability records and preemployment inquiry records). Records (or information contained in records) may include: (1) Individual's and designated third-party's emergency contact name, address and telephone contact information; (2) social security number; (3) date of birth; (4) service computation date; (5) career status; (6) assigned station; (7) job series; (8) education; (9) grade; (10) type of case; (11) work assignments; (12) travel; (13) experience; (14) training; and (15) audit, hotline, health care inspections and investigation case tracking data (*e.g.,* case number, budgeted and actual staff days, target and completion dates, findings and results). Personnel suitability records may contain investigative information about an individual's character, conduct and behavior in the community where he or she lives or lived; arrests and convictions for violations of law; reports of interviews with the subject and with present and former supervisors; coworkers, associates, neighbors, educators, etc., reports about the qualifications of an individual for a specific position and correspondence relating to adjudication matters; reports of inquiries with law enforcement agencies, employers, educational institutions attended, and credit reporting agencies; reports of action after Office of Personnel Management (OPM) or Federal Bureau of Investigation (FBI) full field investigations: And other information developed from the above.

Pre-Employment Inquiry Records: These records may contain information relating to an applicant's qualifications for employment in terms of character, reputation, and fitness; including letters of reference, responses to preemployment inquiries, qualifications and character information; reports of inquiries with law enforcement agencies, employers, educational institutions attended, and credit reporting agencies; and other information which may relate to the specific selection factors associated with the position sought.

RECORD SOURCE CATEGORIES:

Individual employees, supervisors, official personnel folder, other personnel documents, individual applications, and forms.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. *Congress:* VA may disclose information from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

VA must be able to provide information about individuals to adequately respond to inquiries from Members of Congress at the request of constituents who have sought their assistance.

2. *Data breach response and remedial efforts:* VA may, on its own initiative, disclose information from this system to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) the Department has

determined that as a result of the suspected or confirmed compromise there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the potentially compromised information; and (3) the disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

This routine use permits disclosures by the Department to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724.

a. *Effective Response.* A federal agency's ability to respond quickly and effectively in the event of a breach of federal data is critical to its efforts to prevent or minimize any consequent harm. An effective response necessitates disclosure of information regarding the breach to those individuals affected by it, as well as to persons and entities in a position to cooperate, either by assisting in notification to affected individuals or playing a role in preventing or minimizing harms from the breach.

b. *Disclosure of Information.* Often, the information to be disclosed to such persons and entities is maintained by federal agencies and is subject to the Privacy Act (5 U.S.C. 552a). The Privacy Act prohibits the disclosure of any record in a system of records by any means of communication to any person or agency absent the written consent of the subject individual, unless the disclosure falls within one of twelve statutory exceptions. In order to ensure an agency is in the best position to respond in a timely and effective manner, in accordance with 5 U.S.C. 552a(b)(3) of the Privacy Act, agencies should publish a routine use for appropriate systems specifically applying to the disclosure of information in connection with response and remedial efforts in the event of a data breach.

c. Data breach response and remedial efforts with another Federal agency: VA may disclose information from this system to another Federal agency or Federal entity, when VA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

3. *Law Enforcement:* VA may, on its own initiative, disclose information in this system, except the names and home addresses of veterans and their dependents, which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a federal, state, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order. On its own initiative, VA may also disclose the names and addresses of veterans and their dependents to a federal agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto.

VA must be able to provide on its own initiative information that pertains to a violation of laws to law enforcement authorities in order for them to investigate and enforce those laws. Under 38 U.S.C. 5701(a) and (f), VA may disclose the names and addresses of veterans and their dependents to federal entities with law enforcement responsibilities. This is distinct from the authority to disclose records in response to a qualifying request from a law enforcement entity, as authorized by Privacy Act subsection 5 U.S.C. 552a(b)(7).

4. *Litigation:* VA may disclose information from this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to the DoJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

To determine whether to disclose records under this routine use, VA will comply with the guidance promulgated by the Office of Management and Budget in a May 24, 1985, memorandum entitled ''Privacy Act Guidance—Update,'' currently posted at *http://www.whitehouse.gov/omb/inforeg/guidance1985.pdf.*

VA must be able to provide information to DoJ in litigation where the United States or any of its components is involved or has an interest. A determination would be made in each instance that under the circumstances involved, the purpose is compatible with the purpose for which VA collected the information. This routine use is distinct from the authority to disclose records in response to a court order under subsection (b)(11) of the Privacy Act, 5 U.S.C. 552(b)(11), or any other provision of subsection (b), in accordance with the court's analysis in *Doe* v. *DiGenova,* 779 F.2d 74, 78–85 (DC Cir. 1985) and *Doe* v. *Stephens,* 851 F.2d 1457, 1465–67 (DC Cir. 1988).

5. *Contractors:* VA may disclose information from this system of records to individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor, subcontractor, public or private agency, or other entity or individual with whom VA has a contract or agreement to perform services under the contract or agreement.

This routine use includes disclosures by an individual or entity performing services for VA to any secondary entity or individual to perform an activity that is necessary for individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to provide the service to VA.

This routine use, which also applies to agreements that do not qualify as contracts defined by federal procurement laws and regulations, is consistent with OMB guidance in OMB Circular A–130, App. I, paragraph 5a(1)(b) that agencies promulgate routine uses to address disclosure of Privacy Act-protected information to contractors in order to perform the services contracts for the agency.

6. *Equal Employment Opportunity Commission (EEOC):* VA may disclose information from this system to the EEOC when requested in connection with investigations of alleged or possible discriminatory practices, examination of federal affirmative employment programs, or other functions of the Commission as authorized by law or regulation.

VA must be able to provide information to EEOC to assist it in fulfilling its duties to protect employees' rights, as required by statute and regulation.

7. *Federal Labor Relations Authority (FLRA):* VA may disclose information from this system to the FLRA, including its General Counsel, information related to the establishment of jurisdiction, investigation, and resolution of allegations of unfair labor practices, or in connection with the resolution of exceptions to arbitration awards when a question of material fact is raised; for it to address matters properly before the Federal Services Impasses Panel, investigate representation petitions, and conduct or supervise representation elections.

VA must be able to provide information to FLRA to comply with the statutory mandate under which it operates.

8. *Merit Systems Protection Board (MSPB):* VA may disclose information from this system to the MSPB, or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions promulgated in 5 U.S.C. 1205 and 1206, or as authorized by law.

VA must be able to provide information to MSPB to assist it in fulfilling its duties as required by statute and regulation.

9. *National Archives and Records Administration (NARA) and General Services Administration (GSA):* VA may disclose information from this system to NARA and GSA in records management inspections conducted under title 44, U.S.C.

NARA is responsible for archiving old records which are no longer actively used but may be appropriate for preservation, and for the physical maintenance of the federal government's records. VA must be able to provide the records to NARA in order to determine the proper disposition of such records.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records and information are stored electronically in the VA OIG's new Enterprise Management System (EMS) and legacy Master Case Index (MCI) databases and servers at the OIG's office at 801 I Street NW, Washington, DC, in the office of the Information Technology Division. Backup records are stored on magnetic disc, tape, and CD–ROM and may also be retained in hard copy format in secure file folders. Information can be retrieved based on computer searches of various data elements, including, but not limited to, MCI or EMS case numbers, transaction numbers, key words, and names of individual OIG employees. Electronic data is maintained indefinitely as described above. Policy for the disposal of records as well as a retention schedule is being developed by the OIG's Office of Management and Administration, Information on awards and travel is maintained *so* that OIG managers have readily available relevant information about their employees in these areas.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by Social Security Number, case number, work assignment, or name.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Information in the system is protected from unauthorized access through administrative, physical, and technical safeguards. Categories of records are restricted to those with an official need to know the information. Only VA OIG supervisors, for example, can access the Awards data, and only for employees within their supervisory chain. Access to data is also limited by means of features such as ''read-only access,'' *i.e.,* where the person with access can read but not enter or change the information in the system. Safeguards also include password protection features and cipher locks securing the physical area. Some information in the system is restricted to employees of the Human Resources Management Division.

RECORD ACCESS PROCEDURES:

An individual who seeks access to or wishes to contest records maintained under his or her name in this system must submit a written request to the Chief, Information Release Office (50CI). However, a majority of records in this system are exempt from the records access and contesting requirements under 5 U.S.C. 552a (j) and (k). To the extent that records in this system of records are not subject to exemption, they are subject to access and contest. A determination as to whether an exemption applies shall be made at the time a request for access or contest is received.

CONTESTING RECORD PROCEDURES:

(See records access procedures above.)

NOTIFICATION PROCEDURES:

An individual who wishes to determine whether a record is being maintained under his or her name in this system must furnish a written request to the Chief, Information Release Office (50CI), Department of Veteran Affairs, Office of Inspector General, 810 Vermont Avenue NW, Washington, DC 20420.

HISTORY:

[See the last full **Federal Register** notice, 73 FR 56633, Sep. 29, 2008].

[FR Doc. 2019–07648 Filed 4–16–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Office of Inspector General (OIG), Department of Veterans Affairs (VA).

ACTION: Notice of modified system of records.

SUMMARY: As required by the Privacy Act of 1974, notice is hereby given that the Department of Veterans Affairs (VA) is amending the system of records known as ''Criminal Investigations'' (11VA51) by amending the Routine Uses and the Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records within the System. VA is republishing the system notice in its entirety.

DATES: Comments on this modified system of records must be received no later than 30 days after date of publication in the **Federal Register**. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the modified system of records will become effective a minimum of 30 days after date of publication in the **Federal Register**. If VA receives public comments, VA shall review the comments to determine whether any changes to the notice are necessary.

ADDRESSES: Written comments may be submitted through

www.Regulations.gov; by mail or hand-delivery to Director, Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW, Room 1064, Washington, DC 20420; or by fax to (202) 273–9026 (not a toll-free number). Comments should indicate that they are submitted in response to Inspector General Hotline (Complaint Center) Records (66VA53). Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, comments may be viewed online at *www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Christopher Connor, Chief, Information Release Office (50CI), Office of Inspector General, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, 202–461–4269; or fax comments to (202) 495–5859. Amy L. Rose, VA Privacy Service, Office of Information Security (OIS), Office of Information and Technology (OIT), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 632–7497.

SUPPLEMENTARY INFORMATION: This publication is in accordance with the Privacy Act requirement that agencies publish their amended system of records in the **Federal Register** when there is revision, change, or addition. The VA Office of Inspector General (OIG) has reviewed its system of records notices and has determined its record system, ''Criminal Investigations'' (11VA51), should be amended to reflect evolving technology and procedures, to conform to current practice, and to reflect current authorities. The Routine Uses are amended to conform to changes recommended by OMB. The storage practices section will now reflect that data is stored in VA OIG's new Enterprise Management System (EMS) database in addition to the legacy Master Case Index (MCI) database.

The Senior Agency Official for Privacy, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. André Horton, Deputy Chief Information Security Officer, Department of Veterans Affairs approved this document on January 8, 2019 for publication.

Dated: April 12, 2019.

Amy L. Rose,

Program Analyst, VA Privacy Service, Department of Veterans Affairs.

11VA51

SYSTEM NAME:

Criminal Investigations (11VA51).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Department of Veterans Affairs (VA), Office of Inspector General (OIG), Office of Assistant Inspector General for Management and Administration (53), 810 Vermont Avenue NW, Washington, DC 20420.

SYSTEM MANAGER(S):

Assistant Inspector General for Management and Administration (53), Department of Veterans Affairs, Office of Inspector General, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–4760, *VAOIG.ChiefInformationOfficer@va.gov*.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, Public Law (P.L.) 95–452, 5 U.S.C. App., as amended through P.L. 115–254 (IG Act).

PURPOSE(S) OF THE SYSTEM:

The purpose of this system of records is to compile evidence to prove or disprove criminal conduct, identify individual criminal offenders and alleged offenders, and identify witnesses and documents relevant to the investigation of the allegations. The records and information in the system are used in federal and state grand jury proceedings, pre-trial negotiations, plea agreements, pre-trial diversions, court hearings and trials. The records and information in the system may also be used in administrative proceedings when administrative action is taken against the subject of the investigation. VA OIG is modifying the system of records to give notice of changes to the system location and system manager, and to reflect amendments to the authority under which the system of records is maintained.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The following categories of individuals will be covered by the system: (1) Employees, (2) veterans and other VA beneficiaries, and (3) private citizens, such as contractors, who conduct official business with the VA, or private citizens whose actions affect or relate to the programs and operations of VA. The individuals who are or have been the subjects of investigations are those alleged to have violated criminal laws, either federal or state, either in the performance of their official duties or related to the programs and operations of VA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records and information in this system include reports of criminal investigations of the VA OIG, Office of Investigations. These reports may include (1) a narrative summary or synopsis, (2) allegations of specific wrongdoing or crimes committed, (3) progress reports, (4) exhibits or attachments to the reports, (5) internal documentation and memoranda, and (6) affidavits or sworn statements. The name of the subject of an investigation, his or her title, his or her date of birth, his or her social security number, his or her home address, the station at which an investigation took place, the OIG's case number, the time period the investigation took place, and the outcome of the case are maintained in an electronic database and in hard copy files.

RECORD SOURCE CATEGORIES:

Information is obtained from VA employees, third parties (*e.g.,* a veteran, VA beneficiary, VA contractor, or private party), the Government Accountability Office, VA records, congressional, federal, state, and local offices or agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. *Congress:* VA may disclose information from the record of an individual in response to an inquiry from a congressional office made at the request of that individual.

VA must be able to provide information about individuals to adequately respond to inquiries from Members of Congress at the request of constituents who have sought their assistance.

2. *Data breach response and remedial efforts:* VA may, on its own initiative, disclose information from this system to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or

programs (whether maintained by the Department or another agency or entity) that rely upon the potentially compromised information; and (3) the disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

This routine use permits disclosures by the Department to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724.

a. *Effective Response.* A federal agency's ability to respond quickly and effectively in the event of a breach of federal data is critical to its efforts to prevent or minimize any consequent harm. An effective response necessitates disclosure of information regarding the breach to those individuals affected by it, as well as to persons and entities in a position to cooperate, either by assisting in notification to affected individuals or playing a role in preventing or minimizing harms from the breach.

b. *Disclosure of Information.* Often, the information to be disclosed to such persons and entities is maintained by federal agencies and is subject to the Privacy Act (5 U.S.C. 552a). The Privacy Act prohibits the disclosure of any record in a system of records by any means of communication to any person or agency absent the written consent of the subject individual, unless the disclosure falls within one of twelve statutory exceptions. In order to ensure an agency is in the best position to respond in a timely and effective manner, in accordance with 5 U.S.C. 552a(b)(3) of the Privacy Act, agencies should publish a routine use for appropriate systems specifically applying to the disclosure of information in connection with response and remedial efforts in the event of a data breach.

c. Data breach response and remedial efforts with another Federal agency VA may, on its own initiative, disclose information from this system to another Federal agency or Federal entity, when VA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

3. *Law Enforcement:* VA may, on its own initiative, disclose information in this system which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a federal, state, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order. On its own initiative, VA may also disclose the names and addresses of veterans and their dependents to a federal agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto.

VA must be able to provide on its own initiative information that pertains to a violation of laws to law enforcement authorities to enable authorities to investigate and enforce those laws. Under 38 U.S.C. 5701(a) and (f), VA may disclose the names and addresses of veterans and their dependents to federal entities with law enforcement responsibilities. This is distinct from the authority to disclose records in response to a qualifying request from a law enforcement entity, as authorized by Privacy Act subsection 5 U.S.C. 552a(b)(7).

4. *Litigation:* VA may disclose information from this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to the DoJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

To determine whether to disclose records under this routine use, VA will comply with the guidance promulgated by the Office of Management and Budget in a May 24, 1985, memorandum entitled ''Privacy Act Guidance—Update,'' currently posted at *http://www.whitehouse.gov/omb/inforeg/guidance1985.pdf*.

VA must be able to provide information to DoJ in litigation where the United States or any of its components is involved or has an interest. A determination would be made in each instance that under the circumstances involved, the purpose is compatible with the purpose for which VA collected the information. This routine use is distinct from the authority to disclose records in response to a court order under subsection (b)(11) of the Privacy Act, 5 U.S.C. 552(b)(11), or any other provision of subsection (b), in accordance with the court's analysis in *Doe* v. *DiGenova,* 779 F.2d 74, 78–85 (DC Cir. 1985) and *Doe* v. *Stephens,* 851 F.2d 1457, 1465–67 (DC Cir. 1988).

5. Contractors: VA may disclose information from this system of records to individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor, subcontractor, public or private agency, or other entity or individual with whom VA has a contract or agreement to perform services under the contract or agreement.

This routine use includes disclosures by an individual or entity performing services for VA to any secondary entity or individual to perform an activity that is necessary for individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to provide the service to VA.

This routine use, which also applies to agreements that do not qualify as contracts defined by federal procurement laws and regulations, is consistent with OMB guidance in OMB Circular A–130, App. I, paragraph 5a(1)(b) that agencies promulgate routine uses to address disclosure of Privacy Act-protected information to contractors to enable them to perform the services and contracts for the agency.

6. Equal Employment Opportunity Commission (EEOC): VA may disclose information from this system to the EEOC when requested in connection with investigations of alleged or possible discriminatory practices, examination of federal affirmative employment programs, or other functions of the Commission as authorized by law or regulation.

VA must be able to provide information to EEOC to assist it in fulfilling its duties to protect employees' rights, as required by statute and regulation.

7. Federal Labor Relations Authority (FLRA): VA may disclose information from this system to the FLRA, including its General Counsel, information related to the establishment of jurisdiction, investigation, and resolution of allegations of unfair labor practices, or in connection with the resolution of exceptions to arbitration awards when a question of material fact is raised; for it to address matters properly before the Federal Services Impasses Panel, investigate representation petitions, and conduct or supervise representation elections.

VA must be able to provide information to FLRA to comply with the statutory mandate under which it operates.

8. Merit Systems Protection Board (MSPB): VA may disclose information from this system to the MSPB, or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions promulgated in 5 U.S.C. 1205 and 1206, or as authorized by law.

VA must be able to provide information to MSPB to assist it in fulfilling its duties as required by statute and regulation.

9. National Archives and Records Administration (NARA) and General Services Administration (GSA): VA may disclose information from this system to NARA and GSA in records management inspections conducted under title 44, U.S.C.

NARA is responsible for archiving old records which are no longer actively used but may be appropriate for preservation, and for the physical maintenance of the Federal government's records. VA must be able to provide the records to NARA in order to determine the proper disposition of such records.

10. The agency may disclose any information in this system, except the name and address of a veteran, to a federal, state, or local agency maintaining civil or criminal violation records or other pertinent information such as prior employment history, prior federal employment background investigations, and/or personal or educational background in order for VA to obtain information relevant to the hiring, transfer, or retention of an employee, the letting of a contract, the granting of a security clearance, or the issuance of a grant or other benefit. The name and address of a veteran may be disclosed to a federal agency under this routine use if this information has been requested by the federal agency to respond to the VA inquiry.

11. To assist attorneys in representing their clients, the agency may disclose any information in this system to attorneys representing subjects of investigations, including veterans, federal government employees, retirees, volunteers, contractors, subcontractors, or private citizens, except where VA has decided release is inappropriate under Title 5, United States Code, Section 552a(j) and (k).

12. Any information in this system of records may be disclosed, in the course of presenting evidence to a court, magistrate, administrative tribunal, or grand jury, including disclosures to opposing counsel in the course of such proceedings or in settlement negotiations.

13. The agency may disclose any information in this system to any source or person, either private or governmental, to the extent necessary to secure from such source or person information relevant to, and sought in furtherance of, an investigation, review, or inspection.

14. The agency may disclose any information in this system, except the name and address of a veteran, to federal, state, or local professional, regulatory, or disciplinary organizations or associations, including but not limited to bar associations, state licensing boards, and similar professional entities, for use in disciplinary proceedings and inquiries preparatory thereto, where VA determines that there is good cause to question the legality or ethical propriety of the conduct of a person employed by VA or a person representing a person in a matter before VA. The name and address of a veteran may be disclosed to a federal agency under this routine use if this information has been requested by the federal agency to enable it to respond to the VA inquiry.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Records and information are stored electronically in the VA OIG's new EMS (Enterprise Management System) or legacy MCI (Master Case Index) databases and servers at the VA OIG's office at 801 I Street NW, Washington, DC 20420, in the office of the VA OIG's Information Technology Division. Backup records are stored on magnetic disc, tape and CD–ROM and may also be retained in hard copy format in secure file folders. The VA OIG Office of Investigations, Hotline Division is responsible for electronically inputting records and information received from complainants, referrals and correspondence related to the initiation of a case, and final reports. Information inputted electronically includes all correspondence to and from complainants, correspondence (including email messages) to and among VA OIG organizational elements about complaints, and correspondence to and from any VA component to which a case was referred. Complaints and information about VA employees, including all investigative reports and work papers, are maintained in electronic files with restricted access limited to those with a need to know for their the official duties, including personnel in the VA OIG Office of Investigations, VA OIG Human Resources Management Division, VA OIG attorneys, and VA OIG management officials responsible for supervising any VA OIG employee who is the subject of an internal investigation. Hard copies of records and information are discussed in the storage section below.

STORAGE:

Hard copies of documents and information are maintained by the OIG organization that conducts the review, inspection, or investigation. For example, the Administrative Investigations Division, at VA OIG headquarters, maintains hard copies of an investigative file which contains a case referral from Hotline, the final report, all documentation supporting the final report, draft reports, correspondence, and all information collected as part of the investigation. Similarly, the VA OIG Office of Healthcare Inspections (OHI) maintains hard copies of its investigations (final reports and supporting documentation). Other records and information (*i.e.,* work papers) about investigations related to individuals compiled by OHI are maintained in the OHI field office that conducted the investigation. Any internal VA OIG investigations on VA OIG employees, conducted prior to the implementation of electronic files, are maintained in hard copy only and are secured in the Office of Investigations, Analysis and Oversight Division (51X). Access to those files is highly restricted.

RETRIEVABILITY:

Information and records are retrieved by EMS or MCI case number and the name of the subject of the investigation. Scanned documents, reports and other uploaded information that are made part

of the electronic file cannot be searched or retrieved from the EMS or MCI databases as part of a general search.

SAFEGUARDS:

Information in the system is protected from unauthorized access through administrative, physical, and technical safeguards. Access to the hard copy and computerized information is restricted to authorized OIG personnel on a need-to-know basis. Hard copy records are maintained in offices that are restricted during work hours or are locked after duty hours. The headquarters building is protected by security guards and access is restricted during non-duty hours. Access to the computerized information is limited to VA OIG employees by means of passwords and authorized user identification codes. Computer system documentation is maintained in a secure environment in the Office of Inspector General, VA Central Office.

RETENTION AND DISPOSAL:

Records will be maintained and disposed of in accordance with a records disposition authority approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Management and Administration (53), Department of Veterans Affairs, Office of Inspector General, 810 Vermont Avenue NW, Washington, DC 20420.

NOTIFICATION PROCEDURE:

An individual who wishes to determine whether a record is being maintained by the Assistant Inspector General for Investigations, under his or her name in this system or wishes to determine the contents of such records should submit a written request to the Assistant Inspector General for Management and Administration (53). However, a majority of records in this system are exempt from the notification requirements under 5 U.S.C. 552a (j) and (k). To the extent that records in this system of records are not subject to exemption, they are subject to notification. A determination as to whether an exemption applies shall be made at the time a request for notification is received.

RECORD ACCESS PROCEDURES:

An individual who seeks access to or wishes to contest records maintained under his or her name in this system must submit a written request to the Chief, Information Release Office (50CI). However, a majority of records in this system are exempt from the records access and contesting requirements under 5 U.S.C. 552a (j) and (k). To the extent that records in this system of records are not subject to exemption, they are subject to access and contest. A determination as to whether an exemption applies shall be made at the time a request for access or contest is received.

CONTESTING RECORD PROCEDURES:

(See records access procedures above.)

RECORD SOURCE CATEGORIES:

Information is obtained from VA employees, third parties (*e.g.,* a veteran, VA beneficiary, VA contractor, or private party), the Government Accountability Office, Department of Veterans Affairs records, congressional, federal, state, and local offices or agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under 5 U.S.C. 552a(j)(2), the head of any agency may exempt any system of records within the agency from certain provisions of the Privacy Act, if the agency or component that maintains the system performs as its principal function any activities pertaining to the enforcement of criminal laws. The Inspector General Act of 1978, Public Law 95–452 (IG Act), as amended, mandates that the Inspector General recommend policies for and to conduct, supervise, and coordinate activities in the Department of Veterans Affairs and between VA and other Federal, State and local governmental agencies with respect to: (1) The prevention and detection of fraud in programs and operations administered or financed by VA and (2) the identification and prosecution of participants in such fraud. Under the IG Act, whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law, the Inspector General must report the matter expeditiously to the Attorney General. This system of records has been created in major part to support the criminal law-related activities assigned by the Inspector General to the Assistant Inspector General for Investigations. These activities constitute a principal function of the Inspector General's Hotline/Complaint Center staff. In addition to principal functions pertaining to the enforcement of criminal laws, the Inspector General may receive and investigate complaints and allegations from various sources concerning the possible existence of activities constituting non-criminal violations of law, rules or regulations; mismanagement; gross waste of funds; abuses of authority or substantial and specific danger to the public health and safety. This system of records also exists to support inquiries by the Assistant Inspectors General for Auditing, for Management and Administration, for Administrative Investigations, and for Healthcare Inspections into non-criminal matters. Based upon the foregoing, the Secretary of Veterans Affairs has exempted this system of records, to the extent that it encompasses information pertaining to criminal law-related activities, from the following provisions of the Privacy Act of 1974, as permitted by 5 U.S.C. 552a(j)(2): 5 U.S.C. 552a(c) (3) and (4); 5 U.S.C. 552a(d); 5 U.S.C. 552a(e) (1), (2) and (3); 5 U.S.C. 552a(e)(4) (G), and (H) and (I); 5 U.S.C. 552a(e) (5) and (8); 5 U.S.C. 552a(f); 5 U.S.C. 552a(g).

The Secretary of Veterans Affairs has also exempted this system of records to the extent that it does not encompass information pertaining to criminal law related activities under 5 U.S.C. 552a(j)(2) from the following provisions of the Privacy Act of 1974, as permitted by 5 U.S.C. 552a(k)(2): 5 U.S.C. 552a(c)(3); 5 U.S.C. 552a(d); 5 U.S.C. 552a(e)(1); 5 U.S.C. 552a(e)(4) (G), (H) and (I); 5 U.S.C. 552a(f).

REASONS FOR EXEMPTIONS:

The exemption of information and material in this system of records is necessary in order to accomplish the law enforcement functions of the Office of Inspector General, *e.g.,* to prevent subjects of investigations from frustrating the investigatory process by discovering the scope and progress of an investigation, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of sources, to maintain access to sources of information and to avoid endangering these sources and law enforcement personnel.

HISTORY:

[See the last full **Federal Register** notice, 73 FR 46708, Aug. 11, 2008].

[FR Doc. 2019–07647 Filed 4–16–19; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Office of Inspector General, Department of Veterans Affairs (VA).

ACTION: Notice of modified system of records.

SUMMARY: As required by the Privacy Act of 1974, notice is hereby given that the Department of Veterans Affairs (VA)

is amending the system of records known as ''Inspector General Hotline (Complaint Center) Records'' (66VA53) by amending the Routine Uses, the Categories of Individuals Covered by the System, and the Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records within the System. VA is republishing the system notice in its entirety.

DATES: Comments on this modified system of records must be received no later than 30 days after date of publication in the **Federal Register**. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the modified system of records will become effective a minimum of 30 days after date of publication in the **Federal Register**. If VA receives public comments, VA shall review the comments to determine whether any changes to the notice are necessary.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov.* by mail or hand-delivery to Director, Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW, Room 1064, Washington, DC 20420; or by fax to (202) 273–9026 (not a toll-free number). Comments should indicate that they are submitted in response to Inspector General Hotline (Complaint Center) Records (66VA53). Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, comments may be viewed online at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Christopher Connor, Chief, Information Release Office (50CI), Office of Inspector General, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, 202–461–4269; or fax comments to (202) 495–5859. Amy L. Rose, VA Privacy Service, Office of Information Security (OIS), Office of Information and Technology (OIT), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 632–7497.

SUPPLEMENTARY INFORMATION: This publication is in accordance with the Privacy Act requirement that agencies publish their amended system of records in the **Federal Register** when there is revision, change, or addition. The VA Office of Inspector General (OIG) has reviewed its system of records notices and has determined its record system, ''Inspector General Hotline (Complaint Center) Records'' (66VA53), should be amended to reflect evolving technology and procedures, to conform to current practice, and to reflect current authorities. The Categories of Individuals Covered by the System is amended to clarify the term ''subject'' includes subjects identified subsequent to a complaint and VA employees suspected of misconduct. The storage practices section will now reflect that data is stored in VA OIG's new Enterprise Management System (EMS) database in addition to the legacy Master Case Index (MCI) database.

The Senior Agency Official for Privacy, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. André Horton, Deputy Chief Information Security Officer, Department of Veterans Affairs approved this document on January 8, 2019 for publication.

Dated: April 12, 2019.

Amy L. Rose,

Program Analyst, VA Privacy Service, Department of Veterans Affairs.

66VA53

SYSTEM NAME:

Inspector General Hotline (Complaint Center) Records (66VA53).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Department of Veterans Affairs (VA), Office of Inspector General (OIG), Office of Assistant Inspector General for Management and Administration (53), 810 Vermont Avenue NW, Washington, DC 20420.

SYSTEM MANAGER(S):

Assistant Inspector General for Management and Administration (53), Department of Veterans Affairs, Office of Inspector General, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–4760, *VAOIG.ChiefInformationOfficer@va.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, Public Law (Pub. L.) 95–452, 5 U.S.C. App., as amended through Public Law 115–254 (IG Act).

PURPOSE(S) OF THE SYSTEM:

The purpose of this system of records is to store records and information related to official complaints made to the VA OIG. The Hotline Division is the OIG's complaint center and serves as the recipient of all types of complaints about impropriety and wrongdoing related to VA programs and operations. The specific information about each complaint, including name of complainant, name of subject, and allegations of improper conduct, is recorded and then forwarded to the appropriate VA OIG division or external entity for investigation, review, or resolution. The information is also used to provide prompt, responsive, and accurate information regarding the status of Hotline complaints and to provide a record of complaint disposition and statistical information about complaints.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The following categories of individuals will be covered by the system: Individuals who are subjects of complaints, complainants, and witnesses. Subjects, complainants, and witnesses may be VA employees or third parties (*e.g.,* a veteran, VA beneficiary, contractor, or private citizen). Subjects are those alleged to have engaged in wrongdoing or impropriety, criminal, civil, or administrative, either in performance of their official VA duties or related to the programs and operations of VA. Subjects include those identified during the investigation of a complaint. The allegations are made to the OIG Hotline by complainants or developed by the OIG based on complaints. Complainants are individuals who have reported the possible existence of an activity constituting a violation of law, rule or regulation, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety. Complaints may also be made anonymously.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records (or information contained in records) in this system may include: (1) The name, home and work address, email address, and home, work and cellular phone numbers of the complainant and witnesses; (2) the name, title, date of birth, Social Security Number and home and work address of the subject of the complaint; and (3) the location and nature of the alleged wrongdoing. The records maintained in this system may also include: (1) Documentation and other evidence from the complainant; (2) correspondence between the VA OIG Office of Management and Administration (53) and other components of the Office of Inspector General, agency departments,

and the complainant; and (3) reports based on the investigation of the allegations.

RECORD SOURCE CATEGORIES:

Information is obtained from VA employees, third parties (*e.g.,* a veteran, VA beneficiary, VA contractor, or private party), the Government Accountability Office, VA records, congressional, federal, state, and local offices or agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Congress: VA may disclose information from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

VA must be able to provide information about individuals to adequately respond to inquiries from Members of Congress at the request of constituents who have sought their assistance.

2. Data breach response and remedial efforts: VA may, on its own initiative, disclose information from this system to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the potentially compromised information; and (3) the disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

This routine use permits disclosures by the Department to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724.

a. *Effective Response.* A federal agency's ability to respond quickly and effectively in the event of a breach of federal data is critical to its efforts to prevent or minimize any consequent harm. An effective response necessitates disclosure of information regarding the breach to those individuals affected by it, as well as to persons and entities in a position to cooperate, either by assisting in notification to affected individuals or playing a role in preventing or minimizing harms from the breach.

b. *Disclosure of Information.* Often, the information to be disclosed to such persons and entities is maintained by federal agencies and is subject to the Privacy Act (5 U.S.C. 552a). The Privacy Act prohibits the disclosure of any record in a system of records by any means of communication to any person or agency absent the written consent of the subject individual, unless the disclosure falls within one of twelve statutory exceptions. In order to ensure an agency is in the best position to respond in a timely and effective manner, in accordance with 5 U.S.C. 552a(b)(3) of the Privacy Act, agencies should publish a routine use for appropriate systems specifically applying to the disclosure of information in connection with response and remedial efforts in the event of a data breach.

c. Data breach response and remedial efforts with another Federal agency VA may, on its own initiative, disclose information from this system to another Federal agency or Federal entity, when VA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

3. Law Enforcement: VA may, on its own initiative, disclose information in this system, except the names and home addresses of veterans and their dependents, which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a Federal, state, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order. On its own initiative, VA may also disclose the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto.

VA must be able to provide on its own initiative information that pertains to a violation of laws to law enforcement authorities in order for them to investigate and enforce those laws. Under 38 U.S.C. 5701(a) and (f), VA may disclose the names and addresses of veterans and their dependents to Federal entities with law enforcement responsibilities. This is distinct from the authority to disclose records in response to a qualifying request from a law enforcement entity, as authorized by Privacy Act subsection 5 U.S.C. 552a(b)(7).

4. Litigation: VA may disclose information from this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to the DoJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

To determine whether to disclose records under this routine use, VA will comply with the guidance promulgated by the Office of Management and Budget in a May 24, 1985, memorandum entitled ''Privacy Act Guidance—Update,'' currently posted at *http://www.whitehouse.gov/omb/inforeg/guidance1985.pdf.*

VA must be able to provide information to DoJ in litigation where the United States or any of its components is involved or has an interest. A determination would be made in each instance that under the circumstances involved, the purpose is compatible with the purpose for which VA collected the information. This routine use is distinct from the authority to disclose records in response to a court order under subsection (b)(11) of the Privacy Act, 5 U.S.C. 552(b)(11), or any other provision of subsection (b), in accordance with the court's analysis in *Doe* v. *DiGenova,* 779 F.2d 74, 78–85

(D.C. Cir. 1985) and *Doe* v. *Stephens,* 851 F.2d 1457, 1465–67 (D.C. Cir. 1988).

5. Contractors: VA may disclose information from this system of records to individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor, subcontractor, public or private agency, or other entity or individual with whom VA has a contract or agreement to perform services under the contract or agreement.

This routine use includes disclosures by an individual or entity performing services for VA to any secondary entity or individual to perform an activity that is necessary for individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to provide the service to VA.

This routine use, which also applies to agreements that do not qualify as contracts defined by Federal procurement laws and regulations, is consistent with OMB guidance in OMB Circular A–130, App. I, paragraph 5a(1)(b) that agencies promulgate routine uses to address disclosure of Privacy Act-protected information to contractors in order to perform the services contracts for the agency.

6. Equal Employment Opportunity Commission (EEOC): VA may disclose information from this system to the EEOC when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or other functions of the Commission as authorized by law or regulation.

VA must be able to provide information to EEOC to assist it in fulfilling its duties to protect employees' rights, as required by statute and regulation.

7. Federal Labor Relations Authority (FLRA): VA may disclose information from this system to the FLRA, including its General Counsel, information related to the establishment of jurisdiction, investigation, and resolution of allegations of unfair labor practices, or in connection with the resolution of exceptions to arbitration awards when a question of material fact is raised; for it to address matters properly before the Federal Services Impasses Panel, investigate representation petitions, and conduct or supervise representation elections.

VA must be able to provide information to FLRA to comply with the statutory mandate under which it operates.

8. Merit Systems Protection Board (MSPB): VA may disclose information from this system to the MSPB, or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions promulgated in 5 U.S.C. 1205 and 1206, or as authorized by law.

VA must be able to provide information to MSPB to assist it in fulfilling its duties as required by statute and regulation.

9. National Archives and Records Administration (NARA) and General Services Administration (GSA): VA may disclose information from this system to NARA and GSA in records management inspections conducted under title 44, U.S.C.

NARA is responsible for archiving old records which are no longer actively used but may be appropriate for preservation, and for the physical maintenance of the Federal government's records. VA must be able to provide the records to NARA in order to determine the proper disposition of such records.

10. Any information in this system, except the name and address of a veteran, may be disclosed to a Federal, state, or local agency maintaining civil or criminal violation records or other pertinent information such as prior employment history, prior Federal employment background investigations, and/or personal or educational background in order for VA to obtain information relevant to the hiring, transfer, or retention of an employee, the letting of a contract, the granting of a security clearance, or the issuance of a grant or other benefit. The name and address of a veteran may be disclosed to a Federal agency under this routine use if this information has been requested by the Federal agency in order to respond to the VA inquiry.

11. To assist attorneys in representing their clients, any information in this system may be disclosed to attorneys representing subjects of investigations, including veterans, Federal government employees, retirees, volunteers, contractors, subcontractors, or private citizens, except where VA has decided release is inappropriate under Title 5, United States Code, Section 552a(j) and (k).

12. Any information in this system of records may be disclosed, in the course of presenting evidence in or to a court, magistrate, administrative tribunal, or grand jury, including disclosures to opposing counsel in the course of such proceedings or in settlement negotiations.

13. Any information in this system may be disclosed to any source or person, either private or governmental, to the extent necessary to secure from such source or person information relevant to, and sought in furtherance of, a legitimate investigation, review, or inspection.

14. Any information in this system, except the name and address of a veteran, may be disclosed to Federal, state, or local professional, regulatory, or disciplinary organizations or associations, including but not limited to bar associations, state licensing boards, and similar professional entities, for use in disciplinary proceedings and inquiries preparatory thereto, where VA determines that there is good cause to question the legality or ethical propriety of the conduct of a person employed by VA or a person representing a person in a matter before VA. The name and address of a veteran may be disclosed to a Federal agency under this routine use if this information has been requested by the Federal agency in order to respond to the VA inquiry.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Records and information are stored electronically in the VA OIG's new Enterprise Management System (EMS) or legacy Master Case Index (MCI) databases and servers at the OIG's headquarters office at 801 I Street NW, Washington, DC 20420, in the office of the OIG's Information Technology Division. Backup records are stored on magnetic disc, tape and CD–ROM and may also be retained in hard copy format in secure file folders. The VA OIG Hotline Division is responsible for electronically inputting records and information received from complainants, referrals and correspondence related to the initiation of a Hotline case, and final reports. Information inputted electronically includes all correspondence to and from the complainant, correspondence (including email messages) to and among VA OIG organizational elements about the complaint, and correspondence to and from any VA component to which the Hotline case was referred. Complaints and information about OIG employees, including all investigative reports and work papers, are maintained in electronic files with restricted access limited to those with a need to know the official duties in the VA OIG Office of

Investigations, VA OIG Human Resources Management Division, VA OIG attorneys, and VA OIG management officials responsible for supervising the VA OIG employee who is the subject of the internal investigation. Hard copies of records and information are discussed in the storage section below.

STORAGE:

Hard copies of documents and information are maintained by the OIG organization that conducts the review, inspection, or investigation. For example, the Administrative Investigations Division, at VA OIG headquarters, maintains hard copies of an investigative file which contains the case referral from Hotline, the final report, all documentation supporting the final report, draft reports, correspondence, and all information collected as part of the investigation. Similarly, the VA OIG Office of Healthcare Inspections (OHI) maintains hard copies of its Hotline investigations (final reports and supporting documentation) related to individuals at VA OIG headquarters. Other records and information (*i.e.,* work papers) about investigations related to individuals compiled by OHI are maintained in the OHI field office that conducted the investigation. Any internal VA OIG investigations conducted prior to the implementation of electronic files are maintained in hard copy only and are secured in the Office of Investigations, Analysis and Oversight Division (51X). Access to those files is highly restricted.

RETRIEVABILITY:

OIG Hotline cases are assigned a case number in the EMS or MCI database. Records are retrieved by the case numbers. In addition, electronic records may be retrieved by the names of the complainants and names of the subjects of the complaints, retrieved by such persons' title, or by their Social Security number, if entered. It is important to note that scanned documents, reports and other uploaded information that are made part of the file are not searched or retrieved from the databases as part of a general search. Hard copy paper files are retrieved by the case number only.

SAFEGUARDS:

Information in the system is protected from unauthorized access through administrative, physical, and technical safeguards. Access to the hard copy and computerized information is restricted to authorized OIG personnel on a need-to-know basis. Hard copy records are maintained in offices that are restricted during work hours, or are locked after duty hours. The headquarters building is protected by security guards and access is restricted during non-duty hours. Access to the computerized information is limited to VA OIG employees by means of passwords and authorized user identification codes. Computer system documentation is maintained in a secure environment in the Office of Inspector General, VA Central Office.

RETENTION AND DISPOSAL:

Records will be maintained and disposed of in accordance with a records disposition authority approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Management and Administration (53), Department of Veterans Affairs, Office of Inspector General, 810 Vermont Avenue NW, Washington, DC 20420.

NOTIFICATION PROCEDURE:

An individual who wishes to determine whether a record is being maintained by the VA OIG Hotline, under his or her name in this system or wishes to determine the contents of such records should submit a written request to the Assistant Inspector General for Management and Administration (53). However, a majority of records in this system are exempt from the notification requirements under 5 U.S.C. 552a (j) and (k). To the extent that records in this system of records are not subject to exemption, they are subject to notification. A determination as to whether an exemption applies shall be made at the time a request for notification is received.

RECORD ACCESS PROCEDURES:

An individual who seeks access to or wishes to contest records maintained under his or her name in this system must submit a written request to the Chief, Information Release Office (50CI). However, a majority of records in this system are exempt from the records access and contesting requirements under 5 U.S.C. 552a (j) and (k). To the extent that records in this system of records are not subject to exemption, they are subject to access and contest. A determination as to whether an exemption applies shall be made at the time a request for access or contest is received.

CONTESTING RECORD PROCEDURES:

(See records access procedures above.)

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under 5 U.S.C. 552a(j)(2), the head of any agency may exempt any system of records within the agency from certain provisions of the Privacy Act, if the agency or component that maintains the system performs as its principal function any activities pertaining to the enforcement of criminal laws. The Inspector General Act of 1978, Public Law 95–452 (IG Act), mandates that the Inspector General recommend policies for and to conduct, supervise, and coordinate activities in the Department of Veterans Affairs and between VA and other Federal, State and local governmental agencies with respect to: (1) The prevention and detection of fraud in programs and operations administered or financed by VA and (2) the identification and prosecution of participants in such fraud. Under the IG Act, whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law, the Inspector General must report the matter expeditiously to the Attorney General. This system of records has been created in major part to support the criminal law-related activities assigned by the Inspector General to the Assistant Inspector General for Investigations. These activities constitute a principal function of the Inspector General's Hotline/Complaint Center staff. In addition to principal functions pertaining to the enforcement of criminal laws, the Inspector General may receive and investigate complaints and allegations from various sources concerning the possible existence of activities constituting noncriminal violations of law, rules or regulations; mismanagement; gross waste of funds; abuses of authority or substantial and specific danger to the public health and safety. This system of records also exists to support inquiries by the Assistant Inspectors General for Auditing, for Management and Administration, for Administrative Investigations, and for Healthcare Inspections into these non-criminal violations. Based upon the foregoing, the Secretary of Veterans Affairs has exempted this system of records, to the extent that it encompasses information pertaining to criminal law-related activities, from the following provisions of the Privacy Act of 1974, as permitted by 5 U.S.C. 552a(j)(2): 5 U.S.C. 552a(c) (3) and (4); 5 U.S.C. 552a(d); 5 U.S.C. 552a(e) (1), (2) and (3); 5 U.S.C. 552a(e)(4) (G), and (H) and (I); 5 U.S.C. 552a(e) (5) and (8); 5 U.S.C. 552a(f); 5 U.S.C. 552a(g).

The Secretary of Veterans Affairs has also exempted this system of records to the extent that it does not encompass

information pertaining to criminal law related activities under 5 U.S.C. 552a(j)(2) from the following provisions of the Privacy Act of 1974, as permitted by 5 U.S.C. 552a(k)(2): 5 U.S.C. 552a(c)(3); 5 U.S.C. 552a(d); 5 U.S.C. 552a(e)(1); 5 U.S.C. 552a(e)(4) (G), (H) and (I); 5 U.S.C. 552a(f).

REASONS FOR EXEMPTIONS:

The exemption of information and material in this system of records is necessary in order to accomplish the law enforcement functions of the Office of Inspector General, *e.g.,* to prevent subjects of investigations from frustrating the investigatory process by discovering the scope and progress of an investigation, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of sources, to maintain access to sources of information and to avoid endangering these sources and law enforcement personnel.

HISTORY:

[See the last full **Federal Register** notice, 73 FR 46708, Aug. 11, 2008].

[FR Doc. 2019–07649 Filed 4–16–19; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 84 Wednesday,

No. 74 April 17, 2019

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Proposed Frameworks for Migratory Bird Hunting Regulations; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–HQ–MB–2018–0030; FF09M21200–189–FXMB1231099BPP0]

RIN 1018–BD10

Migratory Bird Hunting; Proposed Frameworks for Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; supplemental.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter Service or we) is proposing to establish the 2019–20 hunting regulations for certain migratory game birds. We annually prescribe frameworks, or outer limits, for dates and times when hunting may occur and the number of birds that may be taken and possessed in hunting seasons. These frameworks are necessary to allow State selections of seasons and limits and to allow recreational harvest at levels compatible with population and habitat conditions.

DATES: You must submit comments on the proposed migratory bird hunting frameworks by May 17, 2019.

ADDRESSES: *Comments:* You may submit comments on the proposals by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–HQ–MB–2018–0030.
- *U.S. mail or hand delivery:* Public Comments Processing, Attn: FWS–HQ–MB–2018–0030; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; MS: BPHC; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Review of Public Comments and Flyway Council Recommendations section, below, for more information).

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, U.S. Fish and Wildlife Service, Department of the Interior, MS: MB, 5275 Leesburg Pike, Falls Church, VA 22041–3803; (703) 358–1967.

SUPPLEMENTARY INFORMATION:

New Process for the Annual Migratory Game Bird Hunting Regulations

As part of the Department of the Interior's retrospective regulatory review, 3 years ago we developed a schedule for migratory game bird hunting regulations that is more efficient and provides hunting season dates much earlier than was possible under the old process. Under the new process, we develop proposed hunting season frameworks for a given year in the fall of the prior year. We then finalize those frameworks a few months later, thereby enabling the State agencies to select and publish their season dates in early summer. We provided a detailed overview of the new process in the August 3, 2017, **Federal Register** (82 FR 36308). This proposed rule is the third in a series of proposed and final rules for the establishment of the 2019–20 hunting seasons.

Regulations Schedule for 2019

On June 14, 2018, we published a proposal to amend title 50 of the Code of Federal Regulations (CFR) at part 20 (83 FR 27836). The proposal provided a background and overview of the migratory bird hunting regulations process, and addressed the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. This document is the third in a series of proposed, supplemental, and final rules for migratory game bird hunting regulations. We will publish additional supplemental proposals for public comment in the **Federal Register** as population, habitat, harvest, and other information become available. Major steps in the 2019–20 regulatory cycle relating to open public meetings and **Federal Register** notifications were illustrated in the diagram at the end of the June 14, 2018, proposed rule (83 FR 27836). Further, we explained that all sections of subsequent documents outlining hunting frameworks and guidelines were organized under numbered headings. Those headings are:

1. Ducks
   A. General Harvest Strategy
   B. Regulatory Alternatives
   C. Zones and Split Seasons
   D. Special Seasons/Species Management
   i. September Teal Seasons
   ii. September Teal/Wood Duck Seasons
   iii. Black ducks
   iv. Canvasbacks
   v. Pintails
   vi. Scaup
   vii. Mottled ducks
   viii. Wood ducks
   ix. Youth Hunt
   x. Mallard Management Units
   xi. Other
2. Sea Ducks
3. Mergansers
4. Canada Geese
   A. Special Early Seasons
   B. Regular Seasons
   C. Special Late Seasons
5. White-fronted Geese
6. Brant
7. Snow and Ross's (Light) Geese
8. Swans
9. Sandhill Cranes
10. Coots
11. Moorhens and Gallinules
12. Rails
13. Snipe
14. Woodcock
15. Band-tailed Pigeons
16. Doves
17. Alaska
18. Hawaii
19. Puerto Rico
20. Virgin Islands
21. Falconry
22. Other

Subsequent documents will refer only to numbered items requiring attention. Therefore, it is important to note that we will omit those items requiring no attention, and remaining numbered items will be discontinuous and appear incomplete.

The June 14 proposed rule also provided detailed information on the proposed 2019–20 regulatory schedule and announced the Service Regulations Committee (SRC) and Flyway Council meetings. On September 21, 2018, we published in the **Federal Register** (83 FR 47868) a second document providing supplemental proposals for migratory bird hunting regulations. The September 21 supplement also provided detailed information on the 2019–20 regulatory schedule and re-announced the SRC and Flyway Council meetings. On October 16–17, 2018, we held open meetings with the Flyway Council Consultants, at which the participants reviewed information on the current status of migratory game birds and developed recommendations for the 2019–20 regulations for these species.

This document deals specifically with proposed frameworks for the migratory bird hunting regulations. It will lead to final frameworks from which States may select season dates, shooting hours, areas, and limits. We have considered all pertinent comments received through November 2018, which includes requests for comments in our June 14 and September 21, 2018, proposed rulemaking documents, and comments from the October SRC meeting. In addition, new proposals for certain regulations are provided for public comment. The comment period is specified above under **DATES**. We will publish final regulatory frameworks for migratory game bird hunting in the **Federal Register** on or around June 15, 2019.

Population Status and Harvest

Each year we publish various species status reports that provide detailed information on the status and harvest of migratory game birds, including information on the methodologies and results. These reports are available at the address indicated under **FOR FURTHER INFORMATION CONTACT** or from our website at *https://www.fws.gov/birds/surveys-and-data/reports-and-publications/population-status.php.*

We used the following reports: Adaptive Harvest Management, 2019 Hunting Season (September 2018); American Woodcock Population Status, 2018 (August 2018); Band-tailed Pigeon Population Status, 2018 (August 2018); Migratory Bird Hunting Activity and Harvest During the 2016–17 and 2017–18 Hunting Seasons (August 2018); Mourning Dove Population Status, 2018 (August 2018); Status and Harvests of Sandhill Cranes, Mid-continent, Rocky Mountain, Lower Colorado River Valley and Eastern Populations, 2018 (August 2018); and Waterfowl Population Status, 2018 (August 2018).

Review of Public Comments and Flyway Council Recommendations

The preliminary proposed rulemaking, which appeared in the June 14, 2018, **Federal Register**, opened the public comment period for migratory game bird hunting regulations and discussed the regulatory alternatives for the 2019–20 duck hunting season. Comments and recommendations are summarized below and numbered in the order used in the June 14, 2018, proposed rule.

We received recommendations from all four Flyway Councils. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the annual review of the frameworks performed by the Councils, support for continuation of last year's frameworks is assumed for items for which no recommendations were received. Council recommendations for changes in the frameworks are summarized below. We have included only the numbered items pertaining to issues for which we received recommendations. Consequently, the issues do not follow in successive numerical order.

We seek additional information and comments on the recommendations in this supplemental proposed rule. New proposals and modifications to previously described proposals are discussed below. Wherever possible, they are discussed under headings corresponding to the numbered items in the June 14, 2018, proposed rule.

General

Written Comments: A commenter protested the entire migratory bird hunting regulations process, the killing of all migratory birds, and status and habitat data on which the migratory bird hunting regulations are based.

Service Response: Our long-term objectives continue to include providing opportunities to harvest portions of certain migratory game bird populations and to limit harvests to levels compatible with each population's ability to maintain healthy, viable numbers. Having taken into account the zones of temperature and the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory birds, we believe that the hunting seasons provided for herein are compatible with the current status of migratory bird populations and long-term population goals. Additionally, we are obligated to, and do, give serious consideration to all information received as public comment. While there are problems inherent with any type of representative management of public-trust resources, we believe that the Flyway Council system of migratory bird management has been a longstanding example of State-Federal cooperative management since its establishment in 1952. However, as always, we continue to seek new ways to streamline and improve the process.

1. Ducks

A. General Harvest Strategy

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended the adoption of the ''liberal'' regulatory alternative.

The Mississippi Flyway Council recommended that regulation changes be restricted to one step per year, both when restricting as well as liberalizing hunting regulations.

Service Response: As we stated in the June 14, 2018, and September 21, 2018, proposed rules, we intend to continue use of adaptive harvest management (AHM) to help determine appropriate duck-hunting regulations for the 2019–20 season. AHM is a tool that permits sound resource decisions in the face of uncertain regulatory impacts, as well as providing a mechanism for reducing that uncertainty over time. We use AHM to evaluate four alternative regulatory levels for duck hunting in the Mississippi, Central, and Pacific Flyways based on the population status of mallards (see below). We will use AHM based on the population status of a suite of four species in the Atlantic Flyway (see below). We have specific hunting strategies for species of special concern, such as black ducks, scaup, and pintails.

Mississippi, Central, and Pacific Flyways

The prescribed regulatory alternative for the Mississippi, Central, and Pacific Flyways is based on the status of mallard populations that contribute primarily to each Flyway. In the Central and Mississippi Flyways, we set hunting regulations based on the status and dynamics of mid-continent mallards. Mid-continent mallards are those breeding in central North America (Federal survey strata 13–18, 20–50, and 75–77, and State surveys in Minnesota, Wisconsin, and Michigan). In the Pacific Flyway, we set hunting regulations based on the status and dynamics of western mallards. Western mallards are those breeding in Alaska and the northern Yukon Territory (as based on Federal surveys in strata 1–12), and in California, Oregon, Washington, and British Columbia (as based on State- or Province-conducted surveys).

For the 2019–20 season, we will continue to use independent optimization to determine the optimal regulatory choice for each mallard stock. This means that we would develop regulations for mid-continent mallards and western mallards independently, based upon the breeding stock that contributes primarily to each Flyway. We detailed implementation of this AHM decision framework for western and mid-continent mallards in the July 24, 2008, **Federal Register** (73 FR 43290).

The optimal AHM strategies for mid-continent and western mallards for the 2019–20 hunting season were calculated using: (1) Harvest-management objectives specific to each mallard stock; (2) the 2019–20 regulatory alternatives; and (3) current population models and associated weights. Based on ''liberal'' regulatory alternatives selected for the 2018–19 hunting season, the 2018 Waterfowl Breeding Population and Habitat Survey (WBPHS) results of 9.57 million mid-continent mallards, 3.66 million ponds in Prairie Canada, 1.03 million western mallards observed in Alaska (0.45 million) and the southern Pacific Flyway (0.57 million), the optimal regulatory choice for the three western Flyways is the ''liberal'' alternative. Therefore, we concur with the recommendations of the Mississippi, Central, and Pacific Flyway Councils regarding selection of the ''liberal'' regulatory alternative for the 2019–20 season and propose to adopt the

''liberal'' regulatory alternative, as described in the September 21, 2018, **Federal Register**, with one exception (see B. Regulatory Alternatives below).

Atlantic Flyway

Since 2000, the Service has used an AHM protocol based on the status of eastern mallards to establish the annual framework regulations for duck hunting seasons in the Atlantic Flyway. This protocol assumes that the mallard is an appropriate surrogate for other duck species in the Atlantic Flyway. However, following a review of eastern mallard AHM conducted in 2013, the Atlantic Flyway Council determined that eastern mallards do not adequately represent duck harvest dynamics throughout the entire Flyway; they do not represent the breeding ecology and habitat requirements of other important Atlantic Flyway duck species because their breeding range does not overlap with that of other ducks that breed in the flyway; and their breeding and/or wintering habitat needs differ from many of the other duck species in the Flyway. Thus, although mallards comprise nearly 20 percent of the Atlantic Flyway's duck harvest, the status of eastern mallards does not necessarily reflect that of other Atlantic Flyway duck species. For example, mallards in eastern North America have declined at an average annual rate of 1 percent since 1998, whereas over the same time period all other duck species in eastern North America, for which robust population estimates are available, are stable or increasing.

The Atlantic Flyway Council decided that a decision framework based upon a suite of duck species that better represents the habitat needs and harvest distribution of ducks in the Atlantic Flyway would be superior to the current eastern mallard AHM framework, and we concur. Accordingly, the Service and the Atlantic Flyway began working in 2013 to develop a multi-stock AHM protocol for setting annual duck hunting season frameworks for the Atlantic Flyway.

The development of multi-stock protocols has now been completed, and we adopted multi-stock AHM as a replacement for eastern mallard AHM (September 21, 2018, **Federal Register**; 83 FR 47868). The protocols are based on a suite of four species that represents the dynamics of duck harvest in the Atlantic Flyway and the various habitat types used by waterfowl throughout the Atlantic Flyway: Green-winged teal (*Anas crecca*), common goldeneye (*Bucephala clangula*), ring-necked duck (*Aythya collaris*), and wood duck (*Aix sponsa*). These species comprise more than 40 percent of the Atlantic Flyway's total duck harvest, and they reflect regional variation in harvest composition. The selected species represent upland nesters in boreal and southern Canada (green-winged teal), over-water nesters in boreal Canada (ring-necked duck), cavity nesters in the United States and southern Canada (wood duck), and cavity nesters in boreal Canada (goldeneye). The most important winter waterfowl habitats in the Atlantic Flyway (salt marsh, freshwater marsh, tidal waters, freshwater ponds and lakes, rivers and streams) are important to at least one of these four species.

Species selection was also influenced by our need for sufficient time series of estimates of annual abundance and estimates of harvest rate or annual harvest. The protocol has a harvest objective of no more than 98 percent of maximum sustainable long-term yield for any of the four species. Regulatory alternatives are the same as those used in the eastern mallard AHM, except that the mallard bag limit is not prescribed by the optimal regulatory alternative as determined by the multi-stock AHM protocol. The mallard bag limit in the Atlantic Flyway is now based on a separate assessment of the harvest potential of eastern mallards (see xi. Other for further discussion on the mallard bag limit in the Atlantic Flyway).

The optimal AHM strategies for the Atlantic Flyway for the 2019–20 hunting season were calculated using: (1) Harvest-management objectives specific to each stock; (2) the 2019–20 regulatory alternatives; and (3) current population models and associated weights. Based on the ''liberal'' regulatory alternative selected for the 2018–19 duck hunting season, the 2018 WBPHS results of 0.35 million American green-winged teal, 1.12 million wood ducks, 0.63 million ring-necked ducks, and 0.49 million goldeneyes in the eastern survey area and Atlantic Flyway, the optimal regulatory choice for the Atlantic Flyway is the ''liberal'' alternative. Therefore, we concur with the recommendation of the Atlantic Flyway Council regarding selection of the ''liberal'' regulatory alternative for the 2019–20 season and propose to adopt the ''liberal'' regulatory alternative, as described in the September 21, 2018, **Federal Register**.

Further details on biological models used in the protocol, data sources, optimization methods, and simulation results are available at *http://www.regulations.gov* and on our website at *https://www.fws.gov/birds/surveys-and-data/reports-and-publications.php.*

Regarding the Mississippi Flyway Council recommendation to limit regulatory changes to one step per year, we recognize the longstanding interest by the Council to impose a one-step constraint on regulatory changes. In the September 21, 2018, **Federal Register**, we noted that the Central and Mississippi Flyways have worked with Service staff during the past 3 years to revisit the AHM protocol for managing harvest of mid-continent mallards. This effort has included a discussion of appropriate management objectives, regulatory packages, and management of non-mallard stocks. We continue to support that these discussions are the appropriate venue to discuss what role, if any, a one-step constraint might play in management of waterfowl in the Central and Mississippi Flyways. Such discussions should include the potential impact of a one-step constraint on the frequency of when the liberal, moderate, and restrictive packages would be recommended. On a final note, while we recognize the Council's concern about potentially communicating a large regulatory change to hunters, we have concerns about the appropriateness of a one-step constraint in situations when the status of the waterfowl resource may warrant a regulatory change larger than one step. Furthermore, it is unclear how the AHM protocol can accommodate a one-step constraint in the Mississippi Flyway if the same constraint is not imposed in the Central Flyway. Technical work on the double-looping process tentatively should be completed by June 2019, with any potential changes to regulatory packages and the harvest strategy approved in October 2019 for the 2021–22 season. We look forward to continued work with the Flyway Councils on this issue.

B. Regulatory Alternatives

Council Recommendations: The Mississippi Flyway Council recommended that the framework closing date be modified from the last Sunday in January to January 31 for both the ''liberal'' and ''moderate'' AHM packages.

Service Response: We support the Mississippi Flyway's recommendation for a closing date of January 31 for the 2019–20 midcontinent duck seasons. Although we recognize that this issue is currently being discussed as part of the AHM revision process, we understand that there is agreement among the Mississippi and Central Flyways and the Service's Migratory Bird Management staff that the new forthcoming regulatory alternatives will

contain an ending framework date of January 31 for at least the ''liberal'' regulatory alternative. Thus, we believe adopting the Mississippi Flyway Council's proposed closing date for the 2019–20 seasons is acceptable at this time for both the Mississippi and Central flyways. Further, the Atlantic Flyway currently also has a closing duck framework date of January 31. Therefore, we propose a January 31 closing date for duck frameworks for all four flyways during the 2019–20 hunting seasons. We believe the additional few days will have no measurable impact on duck harvests, and satisfies the desires of the Flyway Councils and hunters.

D. Special Seasons/Species Management

i. September Teal Seasons

Council Recommendations: The Atlantic Flyway Council requested that Florida be allowed to hold an experimental September teal-only season for an additional year (2019), to allow sufficient time to evaluate impacts to non-target species.

Service Response: For the 2019–20 season, we will utilize the 2018 breeding population estimate of 6.45 million blue-winged teal from the traditional survey area and the criteria developed for the teal season guidelines. Thus, a 16-day September teal season in the Atlantic, Central, and Mississippi Flyways is appropriate for the 2019–20 season.

We agree with the Atlantic Flyway Council's request to extend Florida's experimental teal-only season through 2019. The additional year will allow Florida to collect additional data to meet experimental sample size criteria and study impacts to non-target species.

iii. Black Ducks

Council Recommendations: The Atlantic and Mississippi Flyway Councils recommended that the Service continue to follow the International Black Duck AHM Strategy for the 2019–20 season.

Service Response: In 2012, we adopted the International Black Duck AHM Strategy (77 FR 49868; August 17, 2012). The formal strategy is the result of 14 years of technical and policy decisions developed and agreed upon by both Canadian and U.S. agencies and waterfowl managers. The strategy clarifies what harvest levels each country will manage for and reduces conflicts over country-specific regulatory policies. Further, the strategy allows for attainment of fundamental objectives of black duck management: Resource conservation; perpetuation of hunting tradition; and equitable access to the black duck resource between Canada and the United States while accommodating the fundamental sources of uncertainty (partial controllability and partial observability, structural uncertainty, and environmental variation). The underlying model performance is assessed annually, with a comprehensive evaluation of the entire strategy (objectives and model set) planned after 6 years.

For the 2019–20 season, the optimal country-specific regulatory strategies were calculated using: (1) The black duck harvest objective (98 percent of long-term cumulative harvest); (2) 2019–20 country-specific regulatory alternatives; (3) current parameter estimates for mallard competition and additive mortality; and (4) 2018 survey results of 0.53 million breeding black ducks and 0.40 million breeding mallards in the core survey area. The optimal regulatory choices for the 2019–20 season are the ''liberal'' package in Canada and the ''moderate'' package in the United States.

iv. Canvasbacks

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended a full season for canvasbacks with a 2-bird daily bag limit. Season lengths would be 60 days in the Atlantic and Mississippi Flyways, 74 days in the Central Flyway, and 107 days in the Pacific Flyway.

Service Response: As we discussed in the March 28, 2016, final rule (81 FR 17302), the canvasback harvest strategy that we had relied on until 2015 was not viable under our new regulatory process because it required biological information that was not yet available at the time a decision on season structure needed to be made. We do not yet have a new harvest strategy to propose for use in guiding canvasback harvest management in the future. However, we have worked with technical staff of the four Flyway Councils to develop a decision framework (hereafter, decision support tool) that relies on the best biological information available to develop recommendations for annual canvasback harvest regulations. The decision support tool uses available information (1994–2014) on canvasback population size, growth rate, survival, and harvest and a discrete logistic growth model to derive an optimal harvest policy with an objective of maximum sustained yield. The decision support tool calls for a closed season when the observed population is below 460,000, a 1-bird daily bag limit when the observed breeding population is between 460,000 and 480,000, and a 2-bird daily bag limit when the observed population is greater than 480,000. Given that the 2018 canvasback breeding population estimate from the WBPHS was 686,000 birds, we support the Flyway Councils' recommendations for a 2-canvasback daily bag limit for the 2019–20 season.

v. Pintails

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended a full season for pintails, consisting of a 1-bird daily bag limit and a 60-day season in the Atlantic and Mississippi Flyways, a 74-day season in the Central Flyway, and a 107-day season in the Pacific Flyway.

Service Response: The current derived pintail harvest strategy was adopted by the Service and Flyway Councils in 2010 (75 FR 44856; July 29, 2010). For the 2019–20 season, an optimal regulatory strategy for pintails was calculated with: (1) An objective of maximizing long-term cumulative harvest, including a closed-season constraint of 1.75 million birds; (2) the regulatory alternatives and associated predicted harvest; and (3) current population models and their relative weights. Based on a ''liberal'' regulatory alternative with a 2-bird daily bag limit for the 2018–19 season, and the 2018 WBPHS survey results of 2.37 million pintails observed at a mean latitude of 56.1 degrees, the optimal regulatory choice for all four Flyways for the 2019–20 hunting season is the ''liberal'' alternative with a 1-bird daily bag limit.

vi. Scaup

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended use of the ''moderate'' regulation package, consisting of a 60-day season with a 2-bird daily bag in the Atlantic Flyway and a 3-bird daily bag in the Mississippi Flyway, a 74-day season with a 3-bird daily bag limit in the Central Flyway, and an 86-day season with a 3-bird daily bag limit in the Pacific Flyway.

Service Response: In 2008, we adopted and implemented a new scaup harvest strategy (73 FR 43290 on July 24, 2008, and 73 FR 51124 on August 29, 2008) with initial ''restrictive,'' ''moderate,'' and ''liberal'' regulatory packages adopted for each Flyway.

For scaup, optimal regulatory strategies for the 2019–20 season were calculated using: (1) An objective to achieve 95 percent of long-term

cumulative harvest; (2) current scaup regulatory alternatives; and (3) updated model parameters and weights. Based on a ''moderate'' regulatory alternative selected in 2018, and the 2018 WBPHS survey results of 3.99 million scaup, the optimal regulatory choice for the 2019–20 season for all four Flyways is the ''moderate'' regulatory alternative.

ix. Youth Hunt

Council Recommendations: The Pacific Flyway Council recommended replacing tundra swan with swan in the bag limits for the Special Youth Waterfowl Hunting Days.

Service Response: We agree with the Pacific Flyway Council's recommendation to replace tundra swan with swan in the bag limits for the Special Youth Waterfowl Hunting Days. The change is intended to allow the take of any swan species in the Pacific Flyway (currently applicable to only Montana, Utah, and Nevada) consistent with the swan hunting framework that has existed in the Pacific Flyway since 1995. Swans may only be taken by participants possessing applicable swan hunting permits. This will not change the number of swan hunting permits available in any State, but will provide an opportunity for youths with a swan hunting permit to hunt swans during the Special Youth Waterfowl Hunting Days in addition to the regular swan season. Youth hunters in other flyways with a tundra swan hunting permit would continue to be able to hunt tundra swans during the Special Youth Waterfowl Hunting Days. The expected additional harvest from this change is negligible because we anticipate that few youths will apply and successfully draw the limited number of swan hunting permits in the Pacific Flyway, and any issued swan hunting permit may otherwise be filled during the regular swan hunting season. Hunting during the Special Youth Waterfowl Hunting Days in the Pacific Flyway is expected to result in the same ratio of take between trumpeter and tundra swans as occurs in the regular season.

xi. Other

Council Recommendations: The Atlantic Flyway Council recommended use of the Eastern Mallard Prescribed Take Level (PTL) analysis for setting mallard bag limits at two (2) birds per day in the Atlantic Flyway until a formal harvest strategy can be developed in conjunction with the Service. Further, they recommended adopting a restriction of no more than one (1) hen mallard per day in conjunction with reducing the mallard bag limit for the 2019–20 hunting season.

Service Response: The Atlantic Flyway Council's multi-stock harvest strategy (see above) did not specifically address bag limits for mallards. The number of breeding mallards in northeastern United States (about two-thirds of the eastern mallard population in 1998) has decreased by about 38 percent since 1998, and the overall population has declined by about 1 percent per year during that time period. This has resulted in reduced harvest potential for that population. The Service conducted a PTL analysis to estimate the allowable take (kill rate) for eastern mallards, and compared that with the expected kill rate under the most liberal season length (60 days) being considered as part of the multi-stock framework's regulatory alternatives.

PTL requires an estimate of the maximum population growth rate (r_{max}) in the absence of harvest and density dependence. That estimate is then used to calculate the allowable rate of take as $(r_{max}/2)F$, where F is a variable that reflects management objectives. Using contemporary data and assuming a management objective of maximum sustained yield, the PTL analysis estimated an allowable take rate of 0.194–0.198. The expected take (kill) rate for eastern mallards under a 60-day season and a 2-mallard daily bag limit in the U.S. portion of the Atlantic Flyway was 0.193 (SE = 0.016), which is slightly below (but not significantly different from) the point estimate of allowable take (PTL) at maximum sustained yield. This indicates that a 2-bird daily bag limit is sustainable at this time. Thus, we agree with the Atlantic Flyway Council's recommendation of a 2-bird daily bag limit for mallards, of which only one may be a hen. We expect that the hen restriction will help conserve the population's breeding stock. Further details on the PTL analysis are available at *http://www.regulations.gov* and on our website at *https://www.fws.gov/birds/surveys-and-data/reports-and-publications.php.*

4. Canada Geese

B. Regular Seasons

Council Recommendations: The Atlantic Flyway Council made several recommendations concerning Canada goose regular seasons. Specifically, they recommended:

- Allow Maine to designate their Coastal Zone as a low harvest North Atlantic Population (NAP) Zone for an experimental 3-year period (2019–21);
- Change to the ''restrictive'' season option (30-day season with a daily bag limit of two (2) geese in the New England [Connecticut, Massachusetts, and Vermont] and Mid-Atlantic [New Jersey, New York, and Pennsylvania] Regions and one (1) goose in the Chesapeake Region [Delaware, Maryland, and Virginia]) for Atlantic Population (AP) harvest areas in the Atlantic Flyway in 2019–20;
- Allow Connecticut to modify the boundary between the Atlantic Flyway Resident Population (AFRP) zone and NAP zone;
- Allow New Jersey to change the designation of their Coastal Zone from an AFRP to a NAP Canada goose high harvest area beginning in 2019; and
- Modify the New York AFRP Canada Goose Areas to no more than 80 days, starting no earlier than the fourth Saturday in October and ending no later than the last day of February.

Service Response: We agree with all of the Atlantic Flyway Council's recommendations concerning Canada geese. First, allowing Maine to change the designation of their Coastal Zone to a low harvest NAP Zone for an experimental 3-year period (2019–21) should allow for the harvest of more AFRP geese with the longer season length and higher bag limit. While some additional harvest of NAP Canada geese may occur, the Coastal Zone currently meets the criteria as a low harvest zone under the current NAP harvest strategy.

Second, while we note that the current AP harvest strategy indicates that a continuation of the ''moderate'' season may be considered under the current population, moving to a ''restrictive'' season in the AP harvest strategy is the more prudent choice. The breeding pair estimate (the primary metric used to inform AP harvest management decisions) has declined sharply the past 2 years, and although the 3-year running average of total indicated pairs (154,969) remains above the harvest strategy threshold (150,000 pairs) for consideration of a moderate season, the 2018 single-year estimate (112,235 pairs) is 25 percent below that level. Further, the total population index has declined by approximately one-third since 2009. The Atlantic Flyway Council notes that this decline, which is only now showing up in the breeding pair estimate, likely reflects an extended period (2009–16) of average or below-average production years. Additionally, gosling production, as indexed by age ratios at banding, was virtually nonexistent in 2018. This is unprecedented in the 22 years this metric has been monitored. Lastly, given current population trends and the poor

2018 production, the harvest strategy is highly likely to prescribe a ''restrictive'' season in 2020–21. The Atlantic Flyway Council notes that reductions in harvest achieved by implementing a restrictive season 1 year earlier should slow the rate of population decline, and in turn reduce the likelihood of the population declining to a level (60,000 pairs) at which a closed season would be prescribed.

Third, the recommended changes to zone boundaries (Connecticut), zone designation (New Jersey), and framework dates (New York) are all the result of a recent Atlantic Flyway Council assessment of migrant Canada goose harvest in AFRP zones. The assessment indicated that migrant Canada goose harvest in AFRP zones in those States exceeded the level allowed by the Atlantic Flyway Council's established criteria. The Council's recommended changes will reduce migrant Canada goose harvest in AFRP zones in those States and bring them back into compliance with AFRP zone criteria. Thus, we agree that all three changes are appropriate, and we commend the Atlantic Flyway Council's continuing commitment to sustainable harvest of migrant Canada geese.

6. Brant

Council Recommendations: The Atlantic Flyway Council recommended that the 2019–20 season for Atlantic brant follow the Atlantic Flyway Council's brant harvest strategy pending the results of the 2019 Atlantic Flyway Mid-winter Waterfowl Survey (MWS). The Council also recommended that if results of the 2019 MWS are not available, then results of the most recent MWS should be used.

The Pacific Flyway Council recommended that the 2019–20 brant season frameworks be determined based on the harvest strategy in the Council's management plan for the Pacific population of brant pending results of the 2019 Winter Brant Survey (WBS). If results of the 2019 WBS are not available, results of the most recent WBS should be used.

Service Response: As we discussed in the March 28, 2016, final rule (81 FR 17302), the current harvest strategy used to determine the Atlantic brant season frameworks does not fit well within the new regulatory process, similar to the Rocky Mountain Population (RMP) sandhill crane issue discussed below under 9. Sandhill Cranes. In developing the annual proposed frameworks for Atlantic brant in the past, the Atlantic Flyway Council and the Service used the number of brant counted during the MWS in the Atlantic Flyway, and took into consideration the brant population's expected productivity that summer. The MWS is conducted each January, and expected brant productivity is based on early-summer observations of breeding habitat conditions and nesting effort in important brant nesting areas. Thus, the data under consideration were available before the annual Flyway and SRC decision-making meetings took place in late July. Although the former regulatory alternatives for Atlantic brant were developed by factoring together long-term productivity rates (observed during November and December productivity surveys) with estimated observed harvest under different framework regulations, the primary decision-making criterion for selecting the annual frameworks was the MWS count.

Under the new regulatory schedule, neither the expected 2019 brant production information (available summer 2019) nor the 2019 MWS count (normally conducted in January 2019) is yet available. However, the 2019 MWS will be completed and winter brant data will be available by the expected publication of the final frameworks (June 15, 2019). Therefore, in the September 24, 2015, **Federal Register** (80 FR 57664), we adopted the Atlantic Flyway Council's changes to the then-current Atlantic brant hunt plan strategies. The current harvest strategy for Atlantic brant is as follows:

- If the MWS count is <100,000 Atlantic brant, the season would be closed.
- If the MWS count is between 100,000 and 115,000 brant, States could select a 30-day season with a 1-bird daily bag limit.
- If the MWS count is between 115,000 and 130,000 brant, States could select a 30-day season with a 2-bird daily bag limit.
- If the MWS count is between 130,000 and 150,000 brant, States could select a 50-day season with a 2-bird daily bag limit.
- If the MWS count is between 150,000 and 200,000 brant, States could select a 60-day season with a 2-bird daily bag limit.
- If the MWS count is >200,000 brant, States could select a 60-day season with a 3-bird daily bag limit.

Under all the above open-season alternatives, seasons would be between the Saturday nearest September 24 and January 31. Further, States could split their seasons into 2 segments.

When we acquire the 2019 MWS brant count from the recently conducted survey, we will select the appropriate Atlantic brant hunting season for 2019–20 from the above Atlantic brant hunt strategies and publish the result in the final frameworks rule.

As with the case for Atlantic brant, we also agree with the Pacific Flyway Council's recommendation that the 2019–20 Pacific brant season frameworks be determined by the harvest strategy in the Council's management plan for the Pacific population of brant pending results of the 2019 WBS. Similarly, the harvest strategy used to determine the Pacific brant season frameworks does not fit well within the new regulatory process. In developing the annual proposed frameworks for Pacific brant, the Pacific Flyway Council and the Service use the 3-year average number of brant counted during the WBS in the Pacific Flyway to determine annual allowable season length and daily bag limits. The WBS is conducted each January in coastal areas of western Mexico, the United States, and Canada, which is after the date proposed frameworks are formulated in the regulatory process. However, the data are typically available by the expected publication of final frameworks (June 15). When we acquire the survey data from the recently conducted survey, we will select the appropriate frameworks for the 2019–20 Pacific brant season according to the harvest strategy in the Pacific Flyway Council's management plan for Pacific brant and publish the result in the final frameworks rule. The current harvest strategy for Pacific brant is as follows:

- If the WBS index is <102,000 brant, then the brant season is closed, and the season may not reopen until the 3-year average WBS index exceeds 112,000 brant.
- If the WBS index is between 102,000 and 122,000 brant, then Alaska may select a 51-day season with a 2-bird daily bag limit, and California, Oregon, and Washington may select a 16-day season with a 2-bird daily bag limit.
- If the WBS index is between 122,001 and 147,000 brant, then Alaska may select a 107-day season with a 2-bird daily bag limit, and California, Oregon, and Washington may select a 27-day season with a 2-brant daily bag limit.
- If the WBS index is greater than 147,000 brant, then Alaska may select a 107-day season with a 4-bird daily bag limit, and California, Oregon, and Washington may select a 37-day season with a 2-bird daily bag limit.

Under all the above open-season alternatives, the outside framework season dates are September 1 through January 26 in Alaska, the Saturday closest to September 24 through December 15 in California and Oregon, and the Saturday closest to September

24 through the last Sunday in January in Washington.

When we acquire the 2019 WBS in early 2019, we will select the appropriate Pacific brant season frameworks for the 2019–20 season from the above Pacific brant harvest strategy and publish the result in the final frameworks rule.

8. Swans

Council Recommendations: The Atlantic Flyway Council recommended that the allocation of tundra swan hunt permits in the Atlantic Flyway be based on the proportion of tundra swans counted on the Mid-Winter Survey (MWS) in each State that hunts swans. Permit allocation would be re-evaluated every 3 years based on the past 3-year MWS average in each State that allows swan hunting. Permit allocation for the 2019–20 through the 2021–22 seasons will be North Carolina 6,115 permits, Virginia 801 permits, and Delaware 84 permits (for a total of 7,000 in the Atlantic Flyway). If the number of permits available to the Atlantic Flyway should change or if additional States initiate tundra swan hunting seasons, the Council recommends that permit allocation be adjusted based on the proportion of tundra swans counted in each State.

The Pacific Flyway Council recommended several changes to the swan season frameworks. Specifically, the Council recommended:

(1) Extending outside dates to the Saturday nearest September 24 (currently the Saturday nearest October 1) and closing consistent with the duck season framework of January 31 (currently varies by State from December 1 to the Sunday following January 1);

(2) Extending the maximum season length to 107 days (currently varies by State from 64 to 100 days), subject to season closure rules (see below);

(3) Allowing youths with a swan hunting permit to hunt swans during federal Special Youth Waterfowl Hunting Days;

(4) Removing State requirements to monitor and report on swan populations within designated hunt areas;

(5) Increasing the trumpeter swan quota from 5 to 10 in Nevada;

(6) Increasing the trumpeter swan quota from 10 to 20 in Utah;

(7) Increasing permits from 2,000 to 2,750 in Utah; and

(8) Increasing the hunt area for clarification of the boundary in Utah.

Service Response: Recently, we supported the establishment of an experimental tundra swan season in Delaware beginning with the 2019–20 season (83 FR 47868; September 21, 2018). The proposed hunting season followed the guidelines provided in the Atlantic Flyway Council's Eastern Population Tundra Swan Hunt Plan and is not expected to increase the overall harvest of tundra swans. At that time, we stated that the existing allowable harvest would be reallocated among the States that hunt them. The Atlantic Flyway Council's recommendation accomplishes that objective and does not affect permit allocation in any other Flyway. Thus, we agree.

In the Pacific Flyway, we authorized an experimental general swan hunting season (hereafter swan season) within the Pacific Flyway south of Alaska (parts of Montana, Utah, and Nevada) in 1995, which became operational in 2003. We addressed impacts of the swan season in a sequence of environmental assessments and findings of no significant impact (1995, 2000, 2001, 2003). Two native swan species occur in the United States: Tundra swan (*Cygnus columbianus*) and trumpeter swan (*C. buccinator*). Only the Western Population (WP) of tundra swans and Rocky Mountain Population (RMP) of trumpeter swans are subjected to harvest during the swan hunting season in the Pacific Flyway.

Regarding WP tundra swans, the recent 3-year (2016–2018) mean abundance index during spring was 133,340 (95% CI = 83,962–182,719) swans, and exceeded the Pacific Flyway Council's population objective of 60,000 swans. Regarding RMP trumpeter swans, the recent (2015) fall count was 11,271 white swans (*i.e.,* adult and subadult birds), and exceeded the Pacific Flyway Council's population objective of 10,000 white swans. The Council also has an objective for the U.S. breeding segment of RMP trumpeter swans. The recent (2018) fall count was 810 white swans, and exceeded the Council's current population objective of 718 white swans. The recent 3-year (2016–2018) average count was 774 white swans.

The 2003 environmental assessment specified the swan season framework cannot be more liberal until the 3-year average number of trumpeter swans in the RMP U.S. breeding segment was ≥90 percent of the original (*i.e.,* from an earlier management plan) goal of 614 white swans (*i.e.,* threshold of 553 white swans). This threshold was exceeded in 2015, when the 3-year (2013–2015) average fall count was 563 white swans.

Gower et al. (2018) wrote a white paper on the Pacific Flyway swan season. The purpose was to review data (status, distribution, and harvest) associated with the swan season framework since implementation 23 years ago, and to consider the success of the swan season framework in reconciling two potentially conflicting swan management objectives: Tundra swan hunting and trumpeter swan population restoration. The data provide strong evidence the swan season framework in the Pacific Flyway has been successful in the simultaneous achievement of initial objectives for tundra swan hunting opportunity and trumpeter swan population restoration. The white paper provides justification for the Pacific Flyway Council's proposed changes to the swan season framework, particularly the increase in trumpeter swan quotas to rebalance tradeoffs between potentially conflicting swan management objectives. The white paper is available at *https://www.fws.gov/birds/surveys-and-data/reports-and-publications.php.*

Regarding the Pacific Flyway Council's recommendations, we agree with the recommendations for opening and closing dates, season length, and youth waterfowl hunting days. These are all adjustments to realign the swan season framework in the Pacific Flyway with changes to the general duck and goose season frameworks that have occurred since 1995, when the swan season framework was established. This will allow States to simplify their waterfowl seasons by having one season for ducks, geese, and swans, and allow youth hunters with a swan hunting permit to hunt swans during the Federal youth waterfowl hunting days. Broadening the opening and closing dates, extending the season length, and allowing take of swans during the two youth waterfowl hunting days may increase swan harvest, but not in significant numbers because few swans are available to hunters outside of the swan winter migration period. Most tundra and trumpeter swans migrate through Montana, Nevada, and Utah from mid-October through the end of November. Also, there is additional harvest opportunity for tundra swans because the population is currently more than two times the Council's population objective. Despite these liberalizations, adequate protection still exists for trumpeter swans because trumpeter swan harvest is capped at the quota for each State regardless of season length, and the swan season ends in a State upon reaching the trumpeter swan quota in that State.

We also agree with the Council's recommendation to remove State requirements to monitor and report on swan abundance within designated hunting areas. This does not affect the requirement that each State that allows

swan hunting must evaluate hunter participation, species-specific swan harvest, and hunter compliance in complying with State hunter participation and harvest monitoring programs. Each State has monitored swan abundance during the swan hunting season since about 1995. However, the monitoring that has been done is limited to counts of swans with no distinction between tundra and trumpeter swans, and therefore has limited usefulness for informing us about swan population status. Further, swan migration routes and timing of swan migration through each State are now well established, and both tundra swan and trumpeter swan populations are monitored via cooperative State-Federal surveys, which are better tools for assessing swan population status than the aforementioned surveys.

We agree with the Council's recommendation to increase the trumpeter swan quotas from 5 to 10 in Nevada and from 10 to 20 in Utah. The swan hunting season must close in a State upon reaching the trumpeter swan quota in that State regardless of the scheduled season closing date. The quotas (5 and 10 swans) have not been reached in any year since swan hunting was initiated in 1995, except that in Nevada in 2017, the 5-swan quota was reached on the last day of the swan season. Trumpeter swans have increased in abundance since 1995; however, the number allowed to be taken has not increased. The possibility of an early swan-season closure has increased with trumpeter swan abundance increasing at a higher rate than tundra swan abundance. The most recent abundance estimates indicate RMP trumpeter swans have increased 644 percent (1,820 to 11,721 white swans) since 1995, and the U.S. breeding segment has increased 241 percent (427 to 1,029 total swans). Tundra swans have increased only 126 percent (120,528 to 152,099) since 1995. The increased quotas in Nevada and Utah are commensurate with the change in trumpeter swan population status since the quotas were negotiated in 1995 and 2000 (*i.e.,* increased 200 percent). Also, these increases are consistent with an assessment of the harvest potential of RMP trumpeter swans and U.S. breeding segment based on their observed growth rates and a conservative recovery factor of 0.5 considering that trumpeter swans are of management concern but neither endangered nor threatened (see the swan hunting white paper for more assessment details). Using a conservative maximum allowable take estimate of trumpeter swans in Utah and Nevada of 30 swans combined and accounting for population segment composition (6.1 percent U.S. breeding), the expected harvest of trumpeter swans from the U.S. breeding segment, which is of greater concern than the Canada breeding segment, should not exceed about 2 swans (30×0.061), or about 0.2 percent (2 of 1,029 total swans) of the population segment annually.

We also agree with the Council's recommendation to increase the number of hunting permits from 2,000 to 2,750 in Utah. Swan harvest will likely increase with the increase in the number of swan hunting permits, but is expected to be within allowable limits and consistent with the Council's swan management objectives. Tundra swans are currently more than 2 times the Council's population objective, and trumpeter swan harvest is capped at the quota for each State. Since 2000, when about 2,000 swan hunting permits were issued per year, the average estimated harvest was 734 swans. Thus, increasing the number of hunting permits by 750 is estimated to increase the average harvest by 275 swans (to about 1,009 swans in total). Utah issued 2,750 permits during 1995–2000, and at that time the average trumpeter swan harvest was 1,444 swans per year. The number of permits was reduced in 2000 to reduce the probability of trumpeter swan harvest. The harvest of trumpeter swans is limited to a sustainable quota. However, the average trumpeter swan harvest in Utah since 2000 has been 2.1 swans per year, well below the quota. We estimate that increasing the tundra swan permits by 750 will result in less than 1 additional trumpeter swan harvested per year on average. Thus, the average trumpeter swan harvest per year is expected to remain well below Utah's trumpeter swan quota.

We also agree with the Council's recommendation to increase the hunting area in Utah. This involves a small change to help clarify the hunting area boundary through the Bear River National Wildlife Refuge and adjacent private lands currently along property- or imaginary-lines that are not marked by roads or other well defined geographic features or landmarks. This segment of the hunting area boundary will be moved to the nearest road, which is north to State Route 83. The new boundary will be more identifiable for hunters and law enforcement. The additional area included in the hunting area boundary is 124 square miles and represents an increase of 1.75 percent of the current hunting area. The additional area is comprised of agriculture lands, wetlands, and urban areas; approximately 30 percent is swan habitat. The swan hunting boundary will continue to exclude areas where trumpeter swans have been consistently observed for the last 5 years in Utah (northern Box Elder County, Cache County, Rich County, Daggett County).

Finally, we recognize that there are a number of changes that could cumulatively increase trumpeter swan harvest, but this would not exceed the quotas established in Utah and Nevada. Tundra and trumpeter swan populations will continue to be monitored via cooperative Federal-State surveys, and States offering a swan season will continue to be required to carefully monitor swan hunter participation and species-specific swan harvest. Thus, the Service and States are committed to monitoring population abundance and harvest, and any spike in trumpeter swan harvest or decrease in swan abundance of concern will be reviewed and adjustments made accordingly.

9. Sandhill Cranes

Council Recommendations: The Mississippi Flyway Council recommended that Alabama be allowed a 3-year experimental sandhill crane hunting season beginning in 2019, consistent with the guidelines in the Eastern Population of Sandhill Cranes Management Plan (EP Plan). The experimental season would include up to 60 days and 1,200 harvest tags.

The Central Flyway Council recommended the expansion of the areas open to Mid-continent Population sandhill crane hunting in South Dakota.

The Central and Pacific Flyway Councils recommended the establishment of a new hunting area for Rocky Mountain Population (RMP) sandhill cranes in Arizona beginning with the 2019–20 season, and that allowable harvest of RMP cranes be determined based on the formula described in the Pacific and Central Flyway Management Plan for RMP cranes.

Service Response: We agree with the Mississippi Flyway Council's recommendation to establish an experimental season in Alabama. A management plan for the Eastern Population of sandhill cranes was approved by the Atlantic and Mississippi Flyway Councils in 2010. The plan contained provisions and guidelines for establishing hunting seasons in the Mississippi and Atlantic Flyway States if the fall population was above a minimum threshold of 30,000 cranes. The management plan also set an overall harvest objective of no more than 10 percent of the 5-year average peak population estimate for each State. Alabama's 5-year average peak

population count is 14,104 cranes, setting the State's maximum allowable harvest under the plan at 1,410 birds. Alabama's proposal for an experimental season of 1,200 tags meets this provision. Further, Alabama's experimental season would limit the number of crane hunters to 400 (with each getting 3 harvest tags).

The Council further notes that the management plan has the following thresholds for permit allocation among the States:

- When the 3-year fall survey average is ≥30,000, maximum permit allocation will be 10 percent of the 3-year fall survey average; and
- When the 3-year fall survey average is >60,000, the maximum permit allocation will be 12 percent of the 3-year fall survey average.

The latest fall survey 3-year average the Eastern Population of sandhill cranes is 91,250 cranes, which would allow a maximum harvest of up to 10,950 cranes under the current management plan. Currently, only Kentucky, Tennessee, and now Alabama have sandhill crane seasons. Including this new proposal for Alabama, the combined number of allowed harvest permits in the Flyway would be 5,424 permits, well below the maximum allowed. Thus, we support the creation and implementation of an experimental crane season in Alabama. Per all experimental seasons, we will implement a memorandum of agreement with Alabama to cover the experimental period.

The Service agrees with the Central Flyway Council's proposal to modify the eastern boundary for Mid-continent Population sandhill crane hunting in South Dakota. Information suggests few hunters will take advantage of this change, and any increase in harvest will be small.

We also agree with the recommendation to create a new hunting area for RMP cranes in Arizona. The new hunting area is consistent with the hunting area requirements in the Pacific and Central Flyway Council's RMP crane management plan.

Regarding RMP crane harvest, as we discussed in the March 28, 2016, final rule (81 FR 17302), the current harvest strategy used to calculate the allowable harvest of RMP cranes does not fit well within the new regulatory process, similar to the brant issue discussed above under 6. Brant. Results of the fall abundance and recruitment surveys of RMP cranes, which are used in the calculation of the annual allowable harvest, will continue to be released between December 1 and January 31 each year, which is after the date proposed frameworks are formulated in the new regulatory process. If we were to propose regulations at this point in time, data 2 to 4 years old would be used to determine the annual allowable harvest and State harvest allocations for RMP cranes. We agree that relying on data that are 2 to 4 years old is not ideal due to the variability in fall abundance and recruitment for this population, and the significance of these data in determining the annual harvest allocations. Thus, we agree that the formula to determine the annual allowable harvest for RMP cranes published in the March 28, 2016, final rule should be used under the new regulatory schedule. We will produce a final estimate for the allowable harvest of RMP cranes and publish it in the final frameworks rule, allowing us to use data that are 1 to 3 years old, as is currently practiced.

14. Woodcock

Council Recommendations: The Atlantic, Mississippi, and Central Flyway Councils recommended use of the ''moderate'' season framework for the 2019–20 season.

The Mississippi Flyway Council recommended that the framework opening date for the Central Management Region be changed from the Saturday nearest September 22 to a fixed date of September 13.

Service Response: In 2011, we implemented a harvest strategy for woodcock (76 FR 19876, April 8, 2011). The harvest strategy provides a transparent framework for making regulatory decisions for woodcock season length and bag limits while we work to improve monitoring and assessment protocols for this species. Utilizing the criteria developed for the strategy, the 3-year average for the Singing Ground Survey indices and associated confidence intervals fall within the ''moderate package'' for both the Eastern and Central Management Regions. As such, a ''moderate season'' for both management regions for the 2019–20 season is appropriate.

However, we do not support the Mississippi Flyway Council's recommendation to change the woodcock opening framework date to September 13. As we stated earlier this year regarding the recommendation to change the woodcock harvest threshold for the liberal regulatory alternative and framework dates, we recommend that the Woodcock Harvest Strategy Working Group be reconvened to discuss and evaluate any proposed changes to the American Woodcock harvest strategy. We understand that this group has already met and started this important work.

16. Doves

Council Recommendations: The Atlantic and Mississippi Flyway Councils recommended use of the ''standard'' season framework comprised of a 90-day season and 15-bird daily bag limit for States within the Eastern Management Unit. The daily bag limit could be composed of mourning doves and white-winged doves, singly or in combination.

The Mississippi and Central Flyway Councils recommended the use of the ''standard'' season package of a 90-day season and 15-bird daily bag limit for States within the Central Management Unit.

The Pacific Flyway Council recommended use of the ''standard'' season framework with a 60-day season and 15-bird daily bag limit for States in the Western Management Unit

Service Response: Based on the harvest strategies and current population status, we agree with the recommended selection of the ''standard'' season frameworks for doves in the Eastern, Central, and Western Management Units for the 2019–20 season.

Public Comments

The Department of the Interior's policy is, whenever possible, to afford the public an opportunity to participate in the rulemaking process. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations. Before promulgating final migratory game bird hunting regulations, we will consider all comments we receive. These comments, and any additional information we receive, may lead to final regulations that differ from these proposals.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We will not accept comments sent by email or fax. We will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by the date specified in **DATES**.

We will post all comments in their entirety—including your personal identifying information—on *http://www.regulations.gov.* 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. Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Division of Migratory Bird Management, 5275 Leesburg Pike, Falls Church, Virginia. We will consider, but possibly may not respond in detail to, each comment. As in the past, we will summarize all comments we receive during the comment period and respond to them after the closing date in the preambles of any final rules.

Required Determinations

Based on our most current data, we are affirming our required determinations made in the June 14 and September 21 proposed rules; for descriptions of our actions to ensure compliance with the following statutes and Executive Orders, see our June 14, 2018, proposed rule (83 FR 27836):

- National Environmental Policy Act (NEPA) Consideration;
- Endangered Species Act Consideration;
- Regulatory Flexibility Act;
- Small Business Regulatory Enforcement Fairness Act;
- Paperwork Reduction Act of 1995;
- Unfunded Mandates Reform Act;
- Executive Orders 12630, 12866, 12988, 13132, 13175, 13211, 13563, and 13771.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 2019–20 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

Dated: March 18, 2019.

Andrea Travnicek,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, exercising the authority of the Assistant Secretary for Fish and Wildlife and Parks.

Proposed Regulations Frameworks for 2019–20 Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department of the Interior is proposing the following frameworks for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting migratory game birds between the dates of September 1, 2019, and March 10, 2020. These frameworks are summarized below.

General

Dates: All outside dates noted below are inclusive.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are three times the daily bag limit.

Permits: For some species of migratory birds, the Service authorizes the use of permits to regulate harvest or monitor their take by sport hunters, or both. In many cases (*e.g.,* tundra swans, some sandhill crane populations), the Service determines the amount of harvest that may be taken during hunting seasons during its formal regulations-setting process, and the States then issue permits to hunters at levels predicted to result in the amount of take authorized by the Service. Thus, although issued by States, the permits would not be valid unless the Service approved such take in its regulations.

These Federally authorized, State-issued permits are issued to individuals, and only the individual whose name and address appears on the permit at the time of issuance is authorized to take migratory birds at levels specified in the permit, in accordance with provisions of both Federal and State regulations governing the hunting season. The permit must be carried by the permittee when exercising its provisions and must be presented to any law enforcement officer upon request. The permit is not transferrable or assignable to another individual, and may not be sold, bartered, traded, or otherwise provided to another person. If the permit is altered or defaced in any way, the permit becomes invalid.

Flyways and Management Units

Waterfowl Flyways

Atlantic Flyway: Includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway: Includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway: Includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway: Includes Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

Duck Management Units

High Plains Mallard Management Unit: Roughly defined as that portion of the Central Flyway that lies west of the 100th meridian. See Area, Unit, and Zone Descriptions, *Ducks (Including Mergansers) and Coots* for specific boundaries in each State.

Columbia Basin Mallard Management Unit: In Washington, all areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County; and in Oregon, the counties of Gilliam, Morrow, and Umatilla.

Mourning Dove Management Units

Eastern Management Unit: All States east of the Mississippi River, and Louisiana.

Central Management Unit: Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Western Management Unit: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

Woodcock Management Regions

Eastern Management Region: Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Central Management Region: Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

Other geographic descriptions are contained in a later portion of this document.

Definitions

For the purpose of the hunting regulations listed below, the collective terms ''dark'' and ''light'' geese include the following species:

Dark geese: Canada geese, white-fronted geese, brant (except in Alaska,

California, Oregon, Washington, and the Atlantic Flyway), and all other goose species except light geese.

Light geese: Snow (including blue) geese and Ross's geese.

Area, Zone, and Unit Descriptions: Geographic descriptions related to regulations are contained in a later portion of this document.

Area-Specific Provisions: Frameworks for open seasons, season lengths, bag and possession limits, and other special provisions are listed below by Flyway.

Migratory Game Bird Seasons in the Atlantic Flyway

In the Atlantic Flyway States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, North Carolina, and Pennsylvania, where Sunday hunting is prohibited Statewide by State law, all Sundays are closed to the take of all migratory game birds.

Special Youth Waterfowl Hunting Days

Outside Dates: States may select 2 days per duck-hunting zone, designated as ''Youth Waterfowl Hunting Days,'' in addition to their regular duck seasons. The days must be held outside any regular duck season on weekends, holidays, or other non-school days when youth hunters would have the maximum opportunity to participate. The days may be held up to 14 days before or after any regular duck-season frameworks or within any split of a regular duck season, or within any other open season on migratory birds.

Daily Bag Limits: The daily bag limits may include ducks, geese, swans, mergansers, coots, moorhens, and gallinules and would be the same as those allowed in the regular season. Flyway species and area restrictions would remain in effect.

Shooting Hours: One-half hour before sunrise to sunset.

Participation Restrictions: States may use their established definition of age for youth hunters. However, youth hunters must be under the age of 18. In addition, an adult at least 18 years of age must accompany the youth hunter into the field. This adult may not duck hunt but may participate in other seasons that are open on the special youth day. Youth hunters 16 years of age and older must possess a Federal Migratory Bird Hunting and Conservation Stamp (also known as Federal Duck Stamp). Swans may only be taken by participants possessing applicable swan permits.

Special September Teal Season

Outside Dates: Between September 1 and September 30, an open season on all species of teal may be selected by the following States in areas delineated by State regulations:

Atlantic Flyway: Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, and Virginia.

Mississippi Flyway: Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway: Colorado (part), Kansas, Nebraska, New Mexico (part), Oklahoma, and Texas.

Hunting Seasons and Daily Bag Limits: Not to exceed 16 consecutive hunting days in the Atlantic, Mississippi, and Central Flyways. The daily bag limit is 6 teal.

Shooting Hours

Atlantic Flyway: One-half hour before sunrise to sunset, except in South Carolina, where the hours are from sunrise to sunset.

Mississippi and Central Flyways: One-half hour before sunrise to sunset, except in the States of Arkansas, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin, where the hours are from sunrise to sunset.

Special September Duck Seasons

Florida, Kentucky, and Tennessee: In lieu of a special September teal season, a 5-consecutive-day teal/wood duck season may be selected in September. The daily bag limit may not exceed 6 teal and wood ducks in the aggregate, of which no more than 2 may be wood ducks. In addition, a 4-consecutive-day teal-only season may be selected in September either immediately before or immediately after the 5-consecutive-day teal/wood duck season. The daily bag limit is 6 teal. The teal-only season in Florida is experimental.

Waterfowl

Atlantic Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 21) and January 31.

Hunting Seasons and Duck Limits: 60 days. The daily bag limit is 6 ducks, including no more than 2 mallards (no more than 1 of which can be female), 2 black ducks, 1 pintail, 1 mottled duck, 1 fulvous whistling duck, 3 wood ducks, 2 redheads, 2 scaup, 2 canvasbacks, 4 scoters, 4 eiders, and 4 long-tailed ducks.

Closures: The season on harlequin ducks is closed.

Merganser Limits: The daily bag limit of mergansers is 5, only 2 of which may be hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Lake Champlain Zone, New York: The waterfowl seasons, limits, and shooting hours should be the same as those selected for the Lake Champlain Zone of Vermont.

Connecticut River Zone, Vermont: The waterfowl seasons, limits, and shooting hours should be the same as those selected for the Inland Zone of New Hampshire.

Zoning and Split Seasons: Delaware, Florida, Georgia, Maryland, North Carolina, Rhode Island, South Carolina, Virginia, and West Virginia may split their seasons into 3 segments; Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, and Vermont may select hunting seasons by zones and may split their seasons into two segments in each zone.

Scoters, Eiders, and Long-tailed Ducks

Special Sea Duck Seasons

Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia may select a Special Sea Duck Season in designated Special Sea Duck Areas. If a Special Sea Duck Season is selected, scoters, eiders, and long-tailed ducks may be taken in the designated Special Sea Duck Area(s) only during the Special Sea Duck Season dates; scoters, eiders, and long-tailed ducks may be taken outside of Special Sea Duck Area(s) during the regular duck season, in accordance with the frameworks for ducks, mergansers, and coots specified above.

Outside Dates: Between September 15 and January 31.

Special Sea Duck Seasons and Daily Bag Limits: 60 consecutive hunting days, or 60 days that are concurrent with the regular duck season, with a daily bag limit of 5, of the listed sea duck species, including no more than 4 scoters, 4 eiders, and 4 long-tailed ducks. Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may choose to allow the above sea duck limits in addition to the limits applying to other ducks during the regular season. In all other areas, sea ducks may be taken only during the regular open season for ducks and are part of the regular duck season daily bag (not to exceed 4 scoters, 4 eiders, and 4 long-tailed ducks) and possession limits.

Special Sea Duck Areas: In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York; in New Jersey, all coastal waters seaward from the International Regulations for Preventing Collisions at Sea (COLREGS) Demarcation Lines shown on National Oceanic and Atmospheric Administration (NOAA) Nautical Charts and further described in 33 CFR 80.165, 80.501, 80.502, and 80.503; in any waters of the Atlantic Ocean and in any tidal waters of any bay that are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in South Carolina and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay that are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia; and provided that any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States.

Canada Geese

Special Early Canada Goose Seasons

A Canada goose season of up to 15 days during September 1–15 may be selected for the Eastern Unit of Maryland. Seasons not to exceed 30 days during September 1–30 may be selected for Connecticut, Florida, Georgia, New Jersey, New York (Long Island Zone only), North Carolina, Rhode Island, and South Carolina. Seasons may not exceed 25 days during September 1–25 in the remainder of the Flyway. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Daily Bag Limits: Not to exceed 15 Canada geese.

Shooting Hours: One-half hour before sunrise to sunset, except that during any special early Canada goose season, shooting hours may extend to one-half hour after sunset if all other waterfowl seasons are closed in the specific applicable area.

Regular Canada Goose Seasons

Season Lengths, Outside Dates, and Limits: Specific regulations for Canada geese are shown below by State. These seasons may also include white-fronted geese in an aggregate daily bag limit. Unless specified otherwise, seasons may be split into two segments.

Connecticut

North Atlantic Population (NAP) Zone: Between October 1 and January 31, a 60-day season may be held with a 2-bird daily bag limit.

Atlantic Population (AP) Zone: A 30-day season may be held between October 10 and February 5, with a 2-bird daily bag limit.

South Zone: A special season may be held between January 15 and February 15, with a 5-bird daily bag limit.

Resident Population (RP) Zone: An 80-day season may be held between October 1 and February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

Delaware

A 30-day season may be held between November 15 and February 5, with a 1-bird daily bag limit.

Florida

An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Georgia

An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Maine

North and South NAP–H Zones: A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit.

Coastal NAP–L Zone: A 70-day season may be held between October 1 and February 15, with a 3-bird daily bag limit.

Maryland

RP Zone: An 80-day season may be held between November 15 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

AP Zone: A 30-day season may be held between November 15 and February 5, with a 1-bird daily bag limit.

Massachusetts

NAP Zone: A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit. Additionally, a special season may be held from January 15 to February 15, with a 5-bird daily bag limit.

AP Zone: A 30-day season may be held between October 10 and February 5, with a 2-bird daily bag limit.

New Hampshire

A 60-day season may be held Statewide between October 1 and January 31 with a 2-bird daily bag limit.

New Jersey

AP Zone: A 30-day season may be held between the fourth Saturday in October (October 26) and February 5, with a 2-bird daily bag limit.

NAP Zone: A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit.

Special Late Goose Season Area: A special season may be held in designated areas of North and South New Jersey from January 15 to February 15, with a 5-bird daily bag limit.

New York

NAP Zone: Between October 1 and January 31, a 60-day season may be held, with a 2-bird daily bag limit in the High Harvest areas; and between October 1 and February 15, a 70-day season may be held, with a 3-bird daily bag limit in the Low Harvest areas.

AP Zone: A 30-day season may be held between the fourth Saturday in October (October 26), except in the Lake Champlain Area where the opening date is October 10, through February 5, with a 2-bird daily bag limit.

Western Long Island RP Zone: A 107-day season may be held between the Saturday nearest September 24 (September 21) and the last day of February, with an 8-bird daily bag limit. The season may be split into 3 segments.

Rest of State RP Zone: An 80-day season may be held between the fourth Saturday in October (October 26) and the last day of February, with a 5-bird daily bag limit. The season may be split into 3 segments.

North Carolina

RP Zone: An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Northeast Hunt Unit: A 14-day season may be held between the Saturday prior to December 25 (December 21) and January 31, with a 1-bird daily bag limit.

Pennsylvania

SJBP Zone: A 78-day season may be held between the first Saturday in October (October 5) and February 15, with a 3-bird daily bag limit.

RP Zone: An 80-day season may be held between the fourth Saturday in October (October 26) and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

AP Zone: A 30-day season may be held between the fourth Saturday in October (October 26) and February 5, with a 2-bird daily bag limit.

Rhode Island

A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit. A special late season may be held in designated areas from January 15 to February 15, with a 5-bird daily bag limit.

South Carolina

In designated areas, an 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Vermont

Lake Champlain Zone and Interior Zone: A 30-day season may be held between October 10 and February 5, with a 2-bird daily bag limit.

Connecticut River Zone: A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit.

Virginia

SJBP Zone: A 40-day season may be held between November 15 and January 14, with a 3-bird daily bag limit. Additionally, a special late season may be held between January 15 and February 15, with a 5-bird daily bag limit.

AP Zone: A 30-day season may be held between November 15 and February 5, with a 1-bird daily bag limit.

RP Zone: An 80-day season may be held between November 15 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

West Virginia

An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments in each zone.

Light Geese

Season Lengths, Outside Dates, and Limits: States may select a 107-day season between October 1 and March 10, with a 25-bird daily bag limit and no possession limit. States may split their seasons into 3 segments.

Brant

Season Lengths, Outside Dates, and Limits: States may select a season between the Saturday nearest September 24 (September 21) and January 31. States may split their seasons into two segments. The season length and daily bag limit will be based on the upcoming Mid-Winter Survey results and the Atlantic Flyway Council's Atlantic brant harvest strategy.

Mississippi Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 21) and January 31.

Hunting Seasons and Duck Limits: The season may not exceed 60 days, with a daily bag limit of 6 ducks, including no more than 4 mallards (no more than 2 of which may be females), 1 mottled duck, 2 black ducks, 1 pintail, 3 wood ducks, 2 canvasbacks, 3 scaup, and 2 redheads.

Merganser Limits: The daily bag limit is 5, only 2 of which may be hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin may select hunting seasons by zones.

In Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin, the season may be split into two segments in each zone.

In Alabama, Arkansas, and Mississippi, the season may be split into 3 segments.

Geese

Season Lengths, Outside Dates, and Limits

Canada Geese: States may select seasons for Canada geese not to exceed 107 days with a 5-bird daily bag limit during September 1–30, and a 3-bird daily bag limit for the remainder of the season. Seasons may be held between September 1 and February 15, and may be split into 4 segments.

White-fronted Geese and Brant: Arkansas, Illinois, Louisiana, Kentucky, Missouri, Mississippi, and Tennessee may select a season for white-fronted geese not to exceed 74 days with 3 geese daily, or 88 days with 2 geese daily, or 107 days with 1 goose daily between September 1 and February 15; Alabama, Iowa, Indiana, Michigan, Minnesota, Ohio, and Wisconsin may select a season for white-fronted geese not to exceed 107 days with 5 geese daily, in aggregate with dark geese between September 1 and February 15. States may select a season for brant not to exceed 70 days with 2 brant daily, or 107 days with 1 brant daily with outside dates the same as for Canada geese; alternately, States may include brant in an aggregate goose bag limit with either Canada geese, white-fronted geese, or dark geese.

Light Geese: States may select seasons for light geese not to exceed 107 days, with 20 geese daily between September 1 and February 15. There is no possession limit for light geese.

Shooting Hours: One-half hour before sunrise to sunset, except that during September 1–15 shooting hours may extend to one-half hour after sunset for Canada geese if all other waterfowl and crane seasons are closed in the specific applicable area.

Split Seasons: Seasons for geese may be split into four segments unless otherwise indicated.

Central Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 21) and January 31.

Hunting Seasons

High Plains Mallard Management Unit (roughly defined as that portion of the Central Flyway that lies west of the 100th meridian): 97 days. The last 23 days must run consecutively and may start no earlier than the Saturday nearest December 10 (December 7).

Remainder of the Central Flyway: 74 days.

Duck Limits: The daily bag limit is 6 ducks, with species and sex restrictions as follows: 5 mallards (no more than 2 of which may be females), 3 scaup, 2 redheads, 3 wood ducks, 1 pintail, and 2 canvasbacks. In Texas, the daily bag limit on mottled ducks is 1, except that no mottled ducks may be taken during the first 5 days of the season. In addition to the daily limits listed above, the States of Montana, North Dakota, South Dakota, and Wyoming, in lieu of selecting an experimental September teal season, may include an additional daily bag and possession limit of 2 and 6 blue-winged teal, respectively, during the first 16 days of the regular duck season in each respective duck hunting zone. These extra limits are in addition to the regular duck bag and possession limits.

Merganser Limits: The daily bag limit is 5 mergansers, only 2 of which may be hooded mergansers. In States that include mergansers in the duck daily bag limit, the daily limit may be the same as the duck bag limit, only two of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Colorado, Kansas (Low Plains portion), Montana, Nebraska, New Mexico, Oklahoma (Low Plains portion), South Dakota (Low

Plains portion), Texas (Low Plains portion), and Wyoming may select hunting seasons by zones.

In Colorado, Kansas, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming, the regular season may be split into two segments.

Geese

Special Early Canada Goose Seasons: In Kansas, Nebraska, Oklahoma, South Dakota, and Texas, Canada goose seasons of up to 30 days during September 1–30 may be selected. In Colorado, New Mexico, Montana, and Wyoming, Canada goose seasons of up to 15 days during September 1–15 may be selected. In North Dakota, Canada goose seasons of up to 22 days during September 1–22 may be selected. The daily bag limit may not exceed 5 Canada geese, except in Kansas, Nebraska, and Oklahoma, where the daily bag limit may not exceed 8 Canada geese, and in North Dakota and South Dakota, where the daily bag limit may not exceed 15 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Shooting Hours: One-half hour before sunrise to sunset, except that during September 1–15 shooting hours may extend to one-half hour after sunset if all other waterfowl and crane seasons are closed in the specific applicable area.

Regular Goose Seasons

Split Seasons: Seasons for geese may be split into 3 segments. Three-way split seasons for Canada geese require Central Flyway Council and U.S. Fish and Wildlife Service approval, and a 3-year evaluation by each participating State.

Outside Dates: For dark geese, seasons may be selected between the outside dates of the Saturday nearest September 24 (September 21) and the Sunday nearest February 15 (February 16). For light geese, outside dates for seasons may be selected between the Saturday nearest September 24 (September 21) and March 10. In the Rainwater Basin Light Goose Area (East and West) of Nebraska, temporal and spatial restrictions that are consistent with the late-winter snow goose hunting strategy cooperatively developed by the Central Flyway Council and the Service are required.

Season Lengths and Limits

Light Geese: States may select a light goose season not to exceed 107 days. The daily bag limit for light geese is 50 with no possession limit.

Dark Geese: In Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and the Eastern Goose Zone of Texas, States may select a season for Canada geese (or any other dark goose species except white-fronted geese) not to exceed 107 days with a daily bag limit of 8. For white-fronted geese, these States may select either a season of 74 days with a bag limit of 3, or an 88-day season with a bag limit of 2, or a season of 107 days with a bag limit of 1.

In Colorado, Montana, New Mexico, and Wyoming, States may select seasons not to exceed 107 days. The daily bag limit for dark geese is 5 in the aggregate.

In the Western Goose Zone of Texas, the season may not exceed 95 days. The daily bag limit for Canada geese (or any other dark goose species except white-fronted geese) is 5. The daily bag limit for white-fronted geese is 2.

Pacific Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 21) and January 31.

Hunting Seasons and Duck and Merganser Limits: 107 days. The daily bag limit is 7 ducks and mergansers, including no more than 2 female mallards, 1 pintail, 2 canvasbacks, 3 scaup, and 2 redheads. For scaup, the season length is 86 days, which may be split according to applicable zones and split duck hunting configurations approved for each State.

Coot, Common Moorhen, and Purple Gallinule Limits: The daily bag limit of coots, common moorhens, and purple gallinules is 25, singly or in the aggregate.

Zoning and Split Seasons: Arizona, California, Colorado, Idaho, Nevada, Oregon, Utah, Washington, and Wyoming may select hunting seasons by zones and may split their seasons into 2 segments.

Montana and New Mexico may split their seasons into 3 segments.

Colorado River Zone, California: Seasons and limits should be the same as seasons and limits selected in the adjacent portion of Arizona (South Zone).

Geese

Special Early Canada Goose Seasons

A Canada goose season of up to 15 days during September 1–20 may be selected. The daily bag limit may not exceed 5 Canada geese, except in Pacific County, Washington, where the daily bag limit may not exceed 15 Canada geese. Areas open to hunting of Canada geese in each State must be described, delineated, and designated as such in each State's hunting regulations.

Regular Goose Seasons

Season Lengths, Outside Dates, and Limits

Canada Geese and Brant: Except as subsequently noted, 107-day seasons may be selected with outside dates between the Saturday nearest September 24 (September 21) and the last Sunday in January (January 26). In Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming, the daily bag limit is 4 Canada geese and brant in the aggregate. In California, Oregon, and Washington, the daily bag limit is 4 Canada geese. For brant, in California, Oregon and Washington, the season lengths and daily bag limits will be based on the upcoming Winter Brant Survey results and the Pacific brant harvest strategy. Days must be consecutive. Washington and California may select hunting seasons for up to 2 zones. The daily bag limit is 2 brant and is in addition to other goose limits. In Oregon and California, the brant season must end no later than December 15.

White-fronted Geese: Except as subsequently noted, 107-day seasons may be selected with outside dates between the Saturday nearest September 24 (September 21) and March 10. The daily bag limit is 10.

Light Geese: Except as subsequently noted, 107-day seasons may be selected with outside dates between the Saturday nearest September 24 (September 21) and March 10. The daily bag limit is 20.

Split Seasons: Unless otherwise specified, seasons for geese may be split into up to 3 segments. Three-way split seasons for Canada geese and white-fronted geese require Pacific Flyway Council and U.S. Fish and Wildlife Service approval and a 3-year evaluation by each participating State.

California

The daily bag limit for Canada geese is 10.

Balance of State Zone: A Canada goose season may be selected with outside dates between the Saturday nearest September 24 (September 21) and March 10. In the Sacramento Valley Special Management Area, the season on white-fronted geese must end on or before December 28, and the daily bag limit is 3 white-fronted geese. In the North Coast Special Management Area, hunting days that occur after the last Sunday in January (January 26) should be concurrent with Oregon's South Coast Zone.

Northeastern Zone: The white-fronted goose season may be split into 3 segments.

Oregon

The daily bag limit for light geese is 6 on or before the last Sunday in January (January 26).

Harney and Lake County Zone: For Lake County only, the daily white-fronted goose bag limit is 1.

Northwest Permit Zone: A Canada goose season may be selected with outside dates between the Saturday nearest September 24 (September 21) and March 10. Goose seasons may be split into 3 segments. The daily bag limits of Canada geese and light geese are 6 each. In the Tillamook County Management Area, the hunting season is closed on geese.

South Coast Zone: A Canada goose season may be selected with outside dates between the Saturday nearest September 24 (September 21) and March 10. The daily bag limit of Canada geese is 6. Hunting days that occur after the last Sunday in January (January 26) should be concurrent with California's North Coast Special Management Area. Goose seasons may be split into 3 segments.

Utah

A Canada goose and brant season may be selected in the Wasatch Front Zone with outside dates between the Saturday nearest September 24 (September 21) and the first Sunday in February (February 2).

Washington

The daily bag limit for light geese is 6.

Areas 2 Inland and 2 Coastal (Southwest Permit Zone): A Canada goose season may be selected with outside dates between the Saturday nearest September 24 (September 21) and March 10. Goose seasons may be split into 3 segments.

Area 4: Goose seasons may be split into 3 segments.

Permit Zones

In Oregon and Washington permit zones, the hunting season is closed on dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value 5 or less) with a bill length between 40 and 50 millimeters. Hunting of geese will only be by hunters possessing a State-issued permit authorizing them to do so. Shooting hours for geese may begin no earlier than sunrise. Regular Canada goose seasons in the permit zones of Oregon and Washington remain subject to the Memorandum of Understanding entered into with the Service regarding monitoring the impacts of take during the regular Canada goose season on the dusky Canada goose population.

Swans

In portions of the Pacific Flyway (Montana, Nevada, and Utah), an open season for taking a limited number of swans may be selected. These seasons are also subject to the following conditions:

Outside Dates: Between the Saturday nearest September 24 (September 21) and January 31.

Hunting Seasons: Seasons may not exceed 107 days in the designated portions of Montana, Utah, and Nevada.

Permits: Swan hunting is by permit only. Permits will be issued by the State and will authorize each permittee to take no more than 1 swan per season with each permit. Only 1 permit may be issued per hunter in Montana and Utah, 2 permits may be issued per hunter in Nevada. The total number of permits issued may not exceed 500 in Montana, 2,750 in Utah, and 650 in Nevada.

Quotas: The swan season in the respective State must end upon attainment of the following reported harvest of trumpeter swans: 20 in Utah and 10 in Nevada. There is no quota in Montana.

Monitoring: Each State must evaluate hunter participation, species-specific swan harvest, and hunter compliance in providing either species-determinant parts (at least the intact head) or bill measurements (bill length from tip to posterior edge of the nares opening, and presence or absence of yellow lore spots on the bill in front of the eyes) of harvested swans for species identification. Each State should use appropriate measures to maximize hunter compliance with the State's program for swan harvest reporting. Each State must achieve a hunter compliance of at least 80 percent in providing species-determinant parts or bill measurements of harvested swans for species identification or subsequent permits will be reduced by 10 percent in the respective State. Each State must provide to the Service by June 30 following the swan season a report detailing hunter participation, species-specific swan harvest, and hunter compliance in reporting harvest. In Montana, all hunters that harvest a swan must complete and submit a reporting card (bill card) with the bill measurement and color information from the harvested swan within 72 hours of harvest for species determination. In Utah and Nevada, all hunters that harvest a swan must have the swan or species-determinant parts examined by a State or Federal biologist within 72 hours of harvest for species determination.

Other Provisions: In Utah, the season is subject to the terms of the Memorandum of Agreement entered into with the Service in January 2019 regarding harvest monitoring, season closure procedures, and education requirements to minimize take of trumpeter swans during the swan season.

Tundra Swans

In portions of the Atlantic Flyway (Delaware, North Carolina, and Virginia) and the Central Flyway (North Dakota, South Dakota [east of the Missouri River], and that portion of Montana in the Central Flyway), an open season for taking a limited number of tundra swans may be selected. Permits will be issued by the States that authorize the take of no more than 1 tundra swan per permit. A second permit may be issued to hunters from unused permits remaining after the first drawing. The States must obtain harvest and hunter participation data. These seasons are also subject to the following conditions:

In the Atlantic Flyway

—The season may be 90 days, between October 1 and January 31.
—In Delaware, no more than 84 permits may be issued. The season is experimental.
—In North Carolina, no more than 6,115 permits may be issued.
—In Virginia, no more than 801 permits may be issued.

In the Central Flyway

—The season may be 107 days, between the Saturday nearest October 1 (September 28) and January 31.
—In the Central Flyway portion of Montana, no more than 625 permits may be issued.
—In North Dakota, no more than 2,500 permits may be issued.
—In South Dakota, no more than 1,875 permits may be issued.

Sandhill Cranes

Regular Seasons in the Mississippi Flyway

Outside Dates: Between September 1 and February 28 in Minnesota, and between September 1 and January 31 in Alabama, Kentucky and Tennessee.

Hunting Seasons: A season not to exceed 37 consecutive days may be selected in the designated portion of northwestern Minnesota (Northwest Goose Zone), and a season not to exceed 60 consecutive days in Alabama, Kentucky, and Tennessee. The season in Alabama is experimental.

Daily Bag Limit: 1 sandhill crane in Minnesota, 2 sandhill cranes in Kentucky, and 3 sandhill cranes in

Alabama and Tennessee. In Alabama, Kentucky, and Tennessee, the seasonal bag limit is 3 sandhill cranes.

Permits: Each person participating in the regular sandhill crane seasons must have a valid Federal or State sandhill crane hunting permit.

Other Provisions: The number of permits (where applicable), open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plans and approved by the Mississippi Flyway Council.

Regular Seasons in the Central Flyway

Outside Dates: Between September 1 and February 28.

Hunting Seasons: Seasons not to exceed 37 consecutive days may be selected in designated portions of Texas (Area 2). Seasons not to exceed 58 consecutive days may be selected in designated portions of the following States: Colorado, Kansas, Montana, North Dakota, South Dakota, and Wyoming. Seasons not to exceed 93 consecutive days may be selected in designated portions of the following States: New Mexico, Oklahoma, and Texas.

Daily Bag Limits: 3 sandhill cranes, except 2 sandhill cranes in designated portions of North Dakota (Area 2) and Texas (Area 2).

Permits: Each person participating in the regular sandhill crane season must have a valid Federal or State sandhill crane hunting permit.

Special Seasons in the Central and Pacific Flyways

Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming may select seasons for hunting sandhill cranes within the range of the Rocky Mountain Population (RMP) of sandhill cranes subject to the following conditions:

Outside Dates: Between September 1 and January 31.

Hunting Seasons: The season in any State or zone may not exceed 60 days, and may be split into no more than 3 segments.

Bag Limits: Not to exceed 3 daily and 9 per season.

Permits: Participants must have a valid permit, issued by the appropriate State, in their possession while hunting.

Other Provisions: Numbers of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plan and approved by the Central and Pacific Flyway Councils, with the following exceptions:

A. In Utah, 100 percent of the harvest will be assigned to the RMP crane quota;

B. In Arizona, monitoring the racial composition of the harvest must be conducted at 3-year intervals unless 100 percent of the harvest will be assigned to the RMP crane quota;

C. In Idaho, 100 percent of the harvest will be assigned to the RMP crane quota; and

D. In New Mexico, the season in the Estancia Valley is experimental, with a requirement to monitor the level and racial composition of the harvest; greater sandhill cranes in the harvest will be assigned to the RMP crane quota.

Common Moorhens and Purple Gallinules

Outside Dates: Between September 1 and the last Sunday in January (January 26) in the Atlantic, Mississippi, and Central Flyways. States in the Pacific Flyway may select their hunting seasons between the outside dates for the season on ducks, mergansers, and coots; therefore, Pacific Flyway frameworks for common moorhens and purple gallinules are included with the duck, merganser, and coot frameworks.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 70 days in the Atlantic, Mississippi, and Central Flyways. Seasons may be split into 2 segments. The daily bag limit is 15 common moorhens and purple gallinules, singly or in the aggregate of the two species.

Zoning: Seasons may be selected by zones established for duck hunting.

Rails

Outside Dates: States included herein may select seasons between September 1 and the last Sunday in January (January 26) on clapper, king, sora, and Virginia rails.

Hunting Seasons: Seasons may not exceed 70 days, and may be split into 2 segments.

Daily Bag Limits

Clapper and King Rails: In Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, 10, singly or in the aggregate of the two species. In Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, 15, singly or in the aggregate of the two species.

Sora and Virginia Rails: In the Atlantic, Mississippi, and Central Flyways and the Pacific Flyway portions of Colorado, Montana, New Mexico, and Wyoming, 25 rails, singly or in the aggregate of the two species. The season is closed in the remainder of the Pacific Flyway.

Snipe

Outside Dates: Between September 1 and February 28, except in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and Virginia, where the season must end no later than January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 107 days and may be split into 2 segments. The daily bag limit is 8 snipe.

Zoning: Seasons may be selected by zones established for duck hunting.

American Woodcock

Outside Dates: States in the Eastern Management Region may select hunting seasons between October 1 and January 31. States in the Central Management Region may select hunting seasons between the Saturday nearest September 22 (September 21) and January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 45 days in the Eastern and Central Regions. The daily bag limit is 3. Seasons may be split into 2 segments.

Zoning: New Jersey may select seasons in each of two zones. The season in each zone may not exceed 36 days.

Band-Tailed Pigeons

Pacific Coast States (California, Oregon, Washington, and Nevada)

Outside Dates: Between September 15 and January 1.

Hunting Seasons and Daily Bag Limits: Not more than 9 consecutive days, with a daily bag limit of 2.

Zoning: California may select hunting seasons not to exceed 9 consecutive days in each of 2 zones. The season in the North Zone must close by October 3.

Four-Corners States (Arizona, Colorado, New Mexico, and Utah)

Outside Dates: Between September 1 and November 30.

Hunting Seasons and Daily Bag Limits: Not more than 14 consecutive days, with a daily bag limit of 2.

Zoning: New Mexico may select hunting seasons not to exceed 14 consecutive days in each of 2 zones. The season in the South Zone may not open until October 1.

Doves

Outside Dates: Between September 1 and January 31 in the Eastern Management Unit, and between September 1 and January 15 in the Central and Western Management Units, except as otherwise provided, States

may select hunting seasons and daily bag limits as follows:

Eastern Management Unit

Hunting Seasons and Daily Bag Limits: Not more than 90 days, with a daily bag limit of 15 mourning and white-winged doves in the aggregate.

Zoning and Split Seasons: States may select hunting seasons in each of 2 zones. The season within each zone may be split into not more than 3 segments. Regulations for bag and possession limits, season length, and shooting hours must be uniform within specific hunting zones.

Central Management Unit

For all States Except Texas

Hunting Seasons and Daily Bag Limits: Not more than 90 days, with a daily bag limit of 15 mourning and white-winged doves in the aggregate.

Zoning and Split Seasons: States may select hunting seasons in each of 2 zones. The season within each zone may be split into not more than 3 segments.

Texas

Hunting Seasons and Daily Bag Limits: Not more than 90 days, with a daily bag limit of 15 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 2 may be white-tipped doves.

Zoning and Split Seasons: Texas may select hunting seasons for each of 3 zones subject to the following conditions:

A. The hunting season may be split into not more than 2 segments, except in that portion of Texas in which the special white-winged dove season is allowed, where a limited take of mourning and white-tipped doves may also occur during that special season (see Special White-winged Dove Area in Texas).

B. A season may be selected for the North and Central Zones between September 1 and January 25; and for the South Zone between September 14 and January 25.

C. Except as noted above, regulations for bag and possession limits, season length, and shooting hours must be uniform within each hunting zone.

Special White-Winged Dove Area in Texas

In addition, Texas may select a hunting season of not more than 4 days for the Special White-winged Dove Area of the South Zone between September 1 and September 19. The daily bag limit may not exceed 15 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 2 may be mourning doves and no more than 2 may be white-tipped doves.

Western Management Unit

Hunting Seasons and Daily Bag Limits

Idaho, Nevada, Oregon, Utah, and Washington: Not more than 60 days, which may be split between 2 segments. The daily bag limit is 15 mourning and white-winged doves in the aggregate.

Arizona and *California:* Not more than 60 days, which may be split between 2 segments, September 1–15 and November 1–January 15. In Arizona, during the first segment of the season, the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 could be white-winged doves. During the remainder of the season, the daily bag limit is 15 mourning doves. In California, the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 could be white-winged doves.

Alaska

Outside Dates: Between September 1 and January 26.

Hunting Seasons: Alaska may select 107 consecutive days for waterfowl (except brant), sandhill cranes, and common snipe concurrent in each of 5 zones. The season length for brant will be determined based on the upcoming brant winter survey results and the Pacific brant harvest strategy. The season may be split without penalty in the Kodiak Zone.

Closures: The hunting season is closed on spectacled eiders and Steller's eiders.

Daily Bag and Possession Limits

Ducks: Except as noted, a basic daily bag limit of 7 ducks. Daily bag limits in the North Zone are 10, and in the Gulf Coast Zone, they are 8. The basic limits may include no more than 2 canvasbacks daily and may not include sea ducks.

In addition to the basic duck limits, Alaska may select sea duck limits of 10 daily, singly or in the aggregate, including no more than 6 each of either harlequin or long-tailed ducks. Sea ducks include scoters, common and king eiders, harlequin ducks, long-tailed ducks, and common and red-breasted mergansers.

Light Geese: The daily bag limit is 6.

Canada Geese: The daily bag limit is 4 with the following exceptions:

A. In Units 5 and 6, the taking of Canada geese is permitted from September 28 through December 16.

B. On Middleton Island in Unit 6, a special, permit-only Canada goose season may be offered. A mandatory goose identification class is required. Hunters must check in and check out. The bag limit is 1 daily and 1 in possession. The season will close if incidental harvest includes 5 dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value 5 or less) with a bill length between 40 and 50 millimeters.

C. In Units 9, 10, 17, and 18, the daily bag limit is 6 Canada geese.

White-fronted Geese: The daily bag limit is 4 with the following exceptions:

A. In Units 9, 10, and 17, the daily bag limit is 6 white-fronted geese.

B. In Unit 18, the daily bag limit is 10 white-fronted geese.

Emperor Geese: Open seasons for emperor geese may be selected subject to the following conditions:

A. All seasons are by permit only.

B. No more than 1 emperor goose may be harvested per hunter per season.

C. Total harvest may not exceed 1,000 emperor geese.

D. In State Game Management Unit 8, the Kodiak Island Road Area is closed to hunting. The Kodiak Island Road Area consists of all lands and water (including exposed tidelands) east of a line extending from Crag Point in the north to the west end of Saltery Cove in the south and all lands and water south of a line extending from Termination Point along the north side of Cascade Lake extending to Anton Larsen Bay. Marine waters adjacent to the closed area are closed to harvest within 500 feet from the water's edge. The offshore islands are open to harvest, for example: Woody, Long, Gull, and Puffin islands.

Brant: The daily bag limit will be determined based on the upcoming brant winter survey results and the Pacific brant harvest strategy.

Snipe: The daily bag limit is 8.

Sandhill Cranes: The daily bag limit is 2 in the Southeast, Gulf Coast, Kodiak, and Aleutian Zones, and Unit 17 in the North Zone. In the remainder of the North Zone (outside Unit 17), the daily bag limit is 3.

Tundra Swans: Open seasons for tundra swans may be selected subject to the following conditions:

A. All seasons are by permit only.

B. All season framework dates are September 1–October 31.

C. In Unit 17, no more than 200 permits may be issued during this operational season. No more than 3 tundra swans may be authorized per permit, with no more than 1 permit issued per hunter per season.

D. In Unit 18, no more than 500 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per

permit. No more than 1 permit may be issued per hunter per season.

E. In Unit 22, no more than 300 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

F. In Unit 23, no more than 300 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

Hawaii

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 65 days (75 under the alternative) for mourning doves.

Bag Limits: Not to exceed 15 (12 under the alternative) mourning doves.

Note: Mourning doves may be taken in Hawaii in accordance with shooting hours and other regulations set by the State of Hawaii, and subject to the applicable provisions of 50 CFR part 20.

Puerto Rico

Doves and Pigeons

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days.

Daily Bag and Possession Limits: Not to exceed 20 Zenaida, mourning, and white-winged doves in the aggregate, of which not more than 10 may be Zenaida doves and 3 may be mourning doves. Not to exceed 5 scaly-naped pigeons.

Closed Seasons: The season is closed on the white-crowned pigeon and the plain pigeon, which are protected by the Commonwealth of Puerto Rico.

Closed Areas: There is no open season on doves or pigeons in the following areas: Municipality of Culebra, Desecheo Island, Mona Island, El Verde Closure Area, and Cidra Municipality and adjacent areas.

Ducks, Coots, Moorhens, Gallinules, and Snipe

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 55 days may be selected for hunting ducks, common moorhens, and common snipe. The season may be split into 2 segments.

Daily Bag Limits

Ducks: Not to exceed 6 ducks.

Common Moorhens: Not to exceed 6 moorhens.

Common Snipe: Not to exceed 8 snipe.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck, which are protected by the Commonwealth of Puerto Rico. The season also is closed on the purple gallinule, American coot, and Caribbean coot.

Closed Areas: There is no open season on ducks, common moorhens, and common snipe in the Municipality of Culebra and on Desecheo Island.

Virgin Islands

Doves and Pigeons

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 consecutive days.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves.

Closed Seasons: No open season is prescribed for ground or quail doves or pigeons.

Closed Areas: There is no open season for migratory game birds on Ruth Cay (just south of St. Croix).

Local Names for Certain Birds: Zenaida dove, also known as mountain dove; bridled quail-dove, also known as Barbary dove or partridge; common ground-dove, also known as stone dove, tobacco dove, rola, or tortolita; scaly-naped pigeon, also known as red-necked or scaled pigeon.

Ducks

Outside Dates: Between December 1 and January 31.

Hunting Seasons: Not more than 55 consecutive days.

Daily Bag Limits: Not to exceed 6 ducks.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck.

Special Falconry Regulations

In accordance with 50 CFR 21.29, falconry is a permitted means of taking migratory game birds in any State except for Hawaii. States may select an extended season for taking migratory game birds in accordance with the following:

Extended Seasons: For all hunting methods combined, the combined length of the extended season, regular season, and any special or experimental seasons must not exceed 107 days for any species or group of species in a geographical area. Each extended season may be divided into a maximum of 3 segments.

Framework Dates: Seasons must fall between September 1 and March 10.

Daily Bag Limits: Falconry daily bag limits for all permitted migratory game birds must not exceed 3 birds, singly or in the aggregate, during extended falconry seasons, any special or experimental seasons, and regular hunting seasons in all States, including those that do not select an extended falconry season.

Regular Seasons: General hunting regulations, including seasons and hunting hours, apply to falconry. Regular season bag limits do not apply to falconry. The falconry bag limit is not in addition to gun limits.

Area, Unit, and Zone Descriptions

Ducks (Including Mergansers) and Coots

Atlantic Flyway

Connecticut

North Zone: That portion of the State north of I–95.

South Zone: Remainder of the State.

Maine

North Zone: That portion north of the line extending east along Maine State Highway 110 from the New Hampshire-Maine State line to the intersection of Maine State Highway 11 in Newfield; then north and east along Route 11 to the intersection of U.S. Route 202 in Auburn; then north and east on Route 202 to the intersection of I–95 in Augusta; then north and east along I–95 to Route 15 in Bangor; then east along Route 15 to Route 9; then east along Route 9 to Stony Brook in Baileyville; then east along Stony Brook to the U.S. border.

Coastal Zone: That portion south of a line extending east from the Maine-New Brunswick border in Calais at the Route 1 Bridge; then south along Route 1 to the Maine-New Hampshire border in Kittery.

South Zone: Remainder of the State.

Maryland

Special Teal Season Area: Calvert, Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties; that part of Anne Arundel County east of Interstate 895, Interstate 97, and Route 3; that part of Prince George's County east of Route 3 and Route 301; and that part of Charles County east of Route 301 to the Virginia State Line.

Massachusetts

Western Zone: That portion of the State west of a line extending south from the Vermont State line on I–91 to MA 9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut State line.

Central Zone: That portion of the State east of the Berkshire Zone and

west of a line extending south from the New Hampshire State line on I–95 to U.S. 1, south on U.S. 1 to I–93, south on I–93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I–195, west to the Rhode Island State line; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center St.–Elm St. bridge shall be in the Coastal Zone.

Coastal Zone: That portion of Massachusetts east and south of the Central Zone.

New Hampshire

Northern Zone: That portion of the State east and north of the Inland Zone beginning at the Jct. of Rte. 10 and Rte. 25–A in Orford, east on Rte. 25–A to Rte. 25 in Wentworth, southeast on Rte. 25 to Exit 26 of Rte. I–93 in Plymouth, south on Rte. I–93 to Rte. 3 at Exit 24 of Rte. I–93 in Ashland, northeast on Rte. 3 to Rte. 113 in Holderness, north on Rte. 113 to Rte. 113–A in Sandwich, north on Rte. 113–A to Rte. 113 in Tamworth, east on Rte. 113 to Rte. 16 in Chocorua, north on Rte. 16 to Rte. 302 in Conway, east on Rte. 302 to the Maine–New Hampshire border.

Inland Zone: That portion of the State south and west of the Northern Zone, west of the Coastal Zone, and includes the area of Vermont and New Hampshire as described for hunting reciprocity. A person holding a New Hampshire hunting license that allows the taking of migratory waterfowl or a person holding a Vermont resident hunting license that allows the taking of migratory waterfowl may take migratory waterfowl and coots from the following designated area of the Inland Zone: the State of Vermont east of Rte. I–91 at the Massachusetts border, north on Rte. I–91 to Rte. 2, north on Rte. 2 to Rte. 102, north on Rte. 102 to Rte. 253, and north on Rte. 253 to the border with Canada and the area of New Hampshire west of Rte. 63 at the Massachusetts border, north on Rte. 63 to Rte. 12, north on Rte. 12 to Rte. 12–A, north on Rte. 12–A to Rte 10, north on Rte. 10 to Rte. 135, north on Rte. 135 to Rte. 3, north on Rte. 3 to the intersection with the Connecticut River.

Coastal Zone: That portion of the State east of a line beginning at the Maine-New Hampshire border in Rollinsford, then extending to Rte. 4 west to the city of Dover, south to the intersection of Rte. 108, south along Rte. 108 through Madbury, Durham, and Newmarket to the junction of Rte. 85 in Newfields, south to Rte. 101 in Exeter, east to Interstate 95 (New Hampshire Turnpike) in Hampton, and south to the Massachusetts border.

New Jersey

Coastal Zone: That portion of the State seaward of a line beginning at the New York State line in Raritan Bay and extending west along the New York State line to NJ 440 at Perth Amboy; west on NJ 440 to the Garden State Parkway; south on the Garden State Parkway to NJ 109; south on NJ 109 to Cape May County Route 633 (Lafayette Street); south on Lafayette Street to Jackson Street; south on Jackson Street to the shoreline at Cape May; west along the shoreline of Cape May beach to COLREGS Demarcation Line 80.503 at Cape May Point; south along COLREGS Demarcation Line 80.503 to the Delaware State line in Delaware Bay.

North Zone: That portion of the State west of the Coastal Zone and north of a line extending west from the Garden State Parkway on NJ 70 to the New Jersey Turnpike, north on the turnpike to U.S. 206, north on U.S. 206 to U.S. 1 at Trenton, west on U.S. 1 to the Pennsylvania State line in the Delaware River.

South Zone: That portion of the State not within the North Zone or the Coastal Zone.

New York

Lake Champlain Zone: That area east and north of a continuous line extending along U.S. 11 from the New York-Canada International boundary south to NY 9B, south along NY 9B to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont State line.

Long Island Zone: That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone: That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania State line.

Northeastern Zone: That area north of a continuous line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 31, east along NY 31 to NY 13, north along NY 13 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to NY 22, north along NY 22 to Washington County Route 153, east along CR 153 to the New York–Vermont boundary, exclusive of the Lake Champlain Zone.

Southeastern Zone: The remaining portion of New York.

Pennsylvania

Lake Erie Zone: The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

Northwest Zone: The area bounded on the north by the Lake Erie Zone and including all of Erie and Crawford Counties and those portions of Mercer and Venango Counties north of I–80.

North Zone: That portion of the State east of the Northwest Zone and north of a line extending east on I–80 to U.S. 220, Route 220 to I–180, I–180 to I–80, and I–80 to the Delaware River.

South Zone: The remaining portion of Pennsylvania.

Vermont

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area north and west of the line extending from the New York border along U.S. 4 to VT 22A at Fair Haven; VT 22A to U.S. 7 at Vergennes; U.S. 7 to VT 78 at Swanton; VT 78 to VT 36; VT 36 to Maquam Bay on Lake Champlain; along and around the shoreline of Maquam Bay and Hog Island to VT 78 at the West Swanton Bridge; VT 78 to VT 2 in Alburg; VT 2 to the Richelieu River in Alburg; along the east shore of the Richelieu River to the Canadian border.

Interior Zone: That portion of Vermont east of the Lake Champlain Zone and west of a line extending from the Massachusetts border at Interstate 91; north along Interstate 91 to U.S. 2; east along U.S. 2 to VT 102; north along VT 102 to VT 253; north along VT 253 to the Canadian border.

Connecticut River Zone: The remaining portion of Vermont east of the Interior Zone.

Mississippi Flyway

Illinois

North Zone: That portion of the State north of a line extending west from the Indiana border along Peotone-Beecher Road to Illinois Route 50, south along Illinois Route 50 to Wilmington-Peotone Road, west along Wilmington-Peotone Road to Illinois Route 53, north along Illinois Route 53 to New River Road, northwest along New River Road to Interstate Highway 55, south along I–55 to Pine Bluff-Lorenzo Road, west along Pine Bluff-Lorenzo Road to Illinois Route 47, north along Illinois Route 47 to I–80, west along I–80 to I–39, south along I–39 to Illinois Route 18, west

along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central Zone: That portion of the State south of the North Duck Zone line to a line extending west from the Indiana border along I–70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 3, south along Illinois Route 3 to St. Leo's Road, south along St. Leo's Road to Modoc Road, west along Modoc Road to Modoc Ferry Road, southwest along Modoc Ferry Road to Levee Road, southeast along Levee Road to County Route 12 (Modoc Ferry entrance Road), south along County Route 12 to the Modoc Ferry route and southwest on the Modoc Ferry route across the Mississippi River to the Missouri border.

South Zone: That portion of the State south and east of a line extending west from the Indiana border along Interstate 70, south along U.S. Highway 45, to Illinois Route 13, west along Illinois Route 13 to Greenbriar Road, north on Greenbriar Road to Sycamore Road, west on Sycamore Road to N. Reed Station Road, south on N. Reed Station Road to Illinois Route 13, west along Illinois Route 13 to Illinois Route 127, south along Illinois Route 127 to State Forest Road (1025 N), west along State Forest Road to Illinois Route 3, north along Illinois Route 3 to the south bank of the Big Muddy River, west along the south bank of the Big Muddy River to the Mississippi River, west across the Mississippi River to the Missouri border.

South Central Zone: The remainder of the State between the south border of the Central Zone and the North border of the South Zone.

Indiana

North Zone: That part of Indiana north of a line extending east from the Illinois border along State Road 18 to U.S. 31; north along U.S. 31 to U.S. 24; east along U.S. 24 to Huntington; southeast along U.S. 224; south along State Road 5; and east along State Road 124 to the Ohio border.

Central Zone: That part of Indiana south of the North Zone boundary and north of the South Zone boundary.

South Zone: That part of Indiana south of a line extending east from the Illinois border along I–70; east along National Ave.; east along U.S. 150; south along U.S. 41; east along State Road 58; south along State Road 37 to Bedford; and east along U.S. 50 to the Ohio border.

Iowa

North Zone: That portion of Iowa north of a line beginning on the South Dakota-Iowa border at Interstate 29, southeast along Interstate 29 to State Highway 175, east along State Highway 175 to State Highway 37, southeast along State Highway 37 to State Highway 183, northeast along State Highway 183 to State Highway 141, east along State Highway 141 to U.S. Highway 30, and along U.S. Highway 30 to the Illinois border.

Missouri River Zone: That portion of Iowa west of a line beginning on the South Dakota-Iowa border at Interstate 29, southeast along Interstate 29 to State Highway 175, and west along State Highway 175 to the Iowa-Nebraska border.

South Zone: The remainder of Iowa.

Kentucky

West Zone: All counties west of and including Butler, Daviess, Ohio, Simpson, and Warren Counties.

East Zone: The remainder of Kentucky.

Louisiana

East Zone: That area of the State between the Mississippi State line and a line going south on Highway (Hwy) 79 from the Arkansas border to Homer, then south on Hwy 9 to Arcadia, then south on Hwy 147 to Hodge, then south on Hwy 167 to Turkey Creek, then south on Hwy 13 to Eunice, then west on Hwy 190 to Kinder, then south on Hwy 165 to Iowa, then west on I–10 to its junction with Hwy 14 at Lake Charles, then south and east on Hwy 14 to its junction with Hwy 90 in New Iberia, then east on Hwy 90 to the Mississippi State line.

West Zone: That area between the Texas State line and a line going east on I–10 from the Texas border to Hwy 165 at Iowa, then north on Hwy 165 to Kinder, then east on Hwy 190 to Eunice, then north on Hwy 13 to Turkey Creek, then north on Hwy 167 to Hodge, then north on Hwy 147 to Arcadia, then north on Hwy 9 to Homer, then north on Hwy 79 to the Arkansas border.

Coastal Zone: Remainder of the State.

Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Wisconsin State line in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and easterly and southerly along the south shore of Stony Creek to Scenic Drive, easterly and southerly along Scenic Drive to Stony Lake Road, easterly along Stony Lake and Garfield Roads to Michigan Highway 20, east along Michigan 20 to U.S. Highway 10 Business Route (BR) in the city of Midland, easterly along U.S. 10 BR to U.S. 10, easterly along U.S. 10 to Interstate Highway 75/U.S. Highway 23, northerly along I–75/U.S. 23 to the U.S. 23 exit at Standish, easterly along U.S. 23 to the centerline of the Au Gres River, then southerly along the centerline of the Au Gres River to Saginaw Bay, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canadian border.

South Zone: The remainder of Michigan.

Minnesota

North Duck Zone: That portion of the State north of a line extending east from the North Dakota State line along State Highway 210 to State Highway 23 and east to State Highway 39 and east to the Wisconsin State line at the Oliver Bridge.

South Duck Zone: The portion of the State south of a line extending east from the South Dakota State line along U.S. Highway 212 to Interstate 494 and east to Interstate 94 and east to the Wisconsin State line.

Central Duck Zone: The remainder of the State.

Missouri

North Zone: That portion of Missouri north of a line running west from the Illinois border at Lock and Dam 25; west on Lincoln County Hwy N to MO Hwy 79; south on MO Hwy 79 to MO Hwy 47; west on MO Hwy 47 to I–70; west on I–70 to the Kansas border.

Middle Zone: The remainder of Missouri not included in other zones.

South Zone: That portion of Missouri south of a line running west from the Illinois border on MO Hwy 74 to MO Hwy 25; south on MO Hwy 25 to U.S. Hwy 62; west on U.S. Hwy. 62 to MO Hwy 53; north on MO Hwy 53 to MO Hwy 51; north on MO Hwy 51 to U.S. Hwy 60; west on U.S. Hwy 60 to MO Hwy 21; north on MO Hwy 21 to MO Hwy 72; west on MO Hwy 72 to MO Hwy 32; west on MO Hwy 32 to U.S. Hwy 65; north on U.S. Hwy 65 to U.S. Hwy 54; west on U.S. Hwy 54 to U.S. Hwy 71; south on U.S. Hwy 71 to Jasper County Hwy M (Base Line Blvd.); west on Jasper County Hwy M (Base Line Blvd.) to CRD 40 (Base Line Blvd.); west on CRD 40 (Base Line Blvd.) to the Kansas border.

Ohio

Lake Erie Marsh Zone: Includes all land and water within the boundaries of the area bordered by a line beginning at the intersection of Interstate 75 at the Ohio–Michigan State line and continuing south to Interstate 280, then south on I–280 to the Ohio Turnpike (I–80/I–90), then east on the Ohio Turnpike to the Erie–Lorain County line, then north to Lake Erie, then following the Lake Erie shoreline at a distance of 200 yards offshore, then following the shoreline west toward and around the northern tip of Cedar Point Amusement Park, then continuing from the westernmost point of Cedar Point toward the southernmost tip of the sand bar at the mouth of Sandusky Bay and out into Lake Erie at a distance of 200 yards offshore continuing parallel to the Lake Erie shoreline north and west toward the northernmost tip of Cedar Point National Wildlife Refuge, then following a direct line toward the southernmost tip of Wood Tick Peninsula in Michigan to a point that intersects the Ohio–Michigan State line, then following the State line back to the point of the beginning.

North Zone: That portion of the State, excluding the Lake Erie Marsh Zone, north of a line extending east from the Indiana State line along U.S. Highway (U.S.) 33 to State Route (SR) 127, then south along SR 127 to SR 703, then south along SR 703 and including all lands within the Mercer Wildlife Area to SR 219, then east along SR 219 to SR 364, then north along SR 364 and including all lands within the St. Mary's Fish Hatchery to SR 703, then east along SR 703 to SR 66, then north along SR 66 to U.S. 33, then east along U.S. 33 to SR 385, then east along SR 385 to SR 117, then south along SR 117 to SR 273, then east along SR 273 to SR 31, then south along SR 31 to SR 739, then east along SR 739 to SR 4, then north along SR 4 to SR 95, then east along SR 95 to SR 13, then southeast along SR 13 to SR 3, then northeast along SR 3 to SR 60, then north along SR 60 to U.S. 30, then east along U.S. 30 to SR 3, then south along SR 3 to SR 226, then south along SR 226 to SR 514, then southwest along SR 514 to SR 754, then south along SR 754 to SR 39/60, then east along SR 39/60 to SR 241, then north along SR 241 to U.S. 30, then east along U.S. 30 to SR 39, then east along SR 39 to the Pennsylvania State line.

South Zone: The remainder of Ohio not included in the Lake Erie Marsh Zone or the North Zone.

Tennessee

Reelfoot Zone: All or portions of Lake and Obion Counties.

Remainder of State: That portion of Tennessee outside of the Reelfoot Zone.

Wisconsin

North Zone: That portion of the State north of a line extending east from the Minnesota State line along U.S. Highway 10 into Portage County to County Highway HH, east on County Highway HH to State Highway 66 and then east on State Highway 66 to U.S. Highway 10, continuing east on U.S. Highway 10 to U.S. Highway 41, then north on U.S. Highway 41 to the Michigan State line.

Mississippi River Zone: That area encompassed by a line beginning at the intersection of the Burlington Northern & Santa Fe Railway and the Illinois State line in Grant County and extending northerly along the Burlington Northern & Santa Fe Railway to the city limit of Prescott in Pierce County, then west along the Prescott city limit to the Minnesota State line.

South Zone: The remainder of Wisconsin.

Central Flyway

Colorado (Central Flyway Portion)

Special Teal Season Area: Lake and Chaffee Counties and that portion of the State east of Interstate Highway 25.

Northeast Zone: All areas east of Interstate 25 and north of Interstate 70.

Southeast Zone: All areas east of Interstate 25 and south of Interstate 70, and all of El Paso, Pueblo, Huerfano, and Las Animas Counties.

Mountain/Foothills Zone: All areas west of Interstate 25 and east of the Continental Divide, except El Paso, Pueblo, Huerfano, and Las Animas Counties.

Kansas

High Plains Zone: That portion of the State west of U.S. 283.

Low Plains Early Zone: That part of Kansas bounded by a line from the Federal highway U.S.–283 and State highway 96 junction, then east on State highway 96 to its junction with Federal highway U.S.–183, then north on Federal highway U.S.–183 to its junction with Federal highway U.S.–24, then east on Federal highway U.S.–24 to its junction with Federal highway U.S.–281, then north on Federal highway U.S.–281 to its junction with Federal highway U.S.–36, then east on Federal highway U.S.–36 to its junction with State highway K–199, then south on State highway K–199 to its junction with Republic County 30th Road, then south on Republic County 30th Road to its junction with State highway K–148, then east on State highway K–148 to its junction with Republic County 50th Road, then south on Republic County 50th Road to its junction with Cloud County 40th Road, then south on Cloud County 40th Road to its junction with State highway K–9, then west on State highway K–9 to its junction with Federal highway U.S.–24, then west on Federal highway U.S.–24 to its junction with Federal highway U.S.–181, then south on Federal highway U.S.–181 to its junction with State highway K–18, then west on State highway K–18 to its junction with Federal highway U.S.–281, then south on Federal highway U.S.–281 to its junction with State highway K–4, then east on State highway K–4 to its junction with interstate highway I–135, then south on interstate highway I–135 to its junction with State highway K–61, then southwest on State highway K–61 to its junction with McPherson County 14th Avenue, then south on McPherson County 14th Avenue to its junction with McPherson County Arapaho Rd, then west on McPherson County Arapaho Rd to its junction with State highway K–61, then southwest on State highway K–61 to its junction with State highway K–96, then northwest on State highway K–96 to its junction with Federal highway U.S.–56, then southwest on Federal highway U.S.–56 to its junction with State highway K–19, then east on State highway K–19 to its junction with Federal highway U.S.–281, then south on Federal highway U.S.–281 to its junction with Federal highway U.S.–54, then west on Federal highway U.S.–54 to its junction with Federal highway U.S.–183, then north on Federal highway U.S.–183 to its junction with Federal highway U.S.–56, then southwest on Federal highway U.S.–56 to its junction with North Main Street in Spearville, then south on North Main Street to Davis Street, then east on Davis Street to Ford County Road 126 (South Stafford Street), then south on Ford County Road 126 to Garnett Road, then east on Garnett Road to Ford County Road 126, then south on Ford County Road 126 to Ford Spearville Road, then west on Ford Spearville Road to its junction with Federal highway U.S.–400, then northwest on Federal highway U.S.–400 to its junction with Federal highway U.S.–283, and then north on Federal highway U.S.–283 to its junction with Federal highway U.S.–96.

Low Plains Late Zone: That part of Kansas bounded by a line from the Federal highway U.S.–283 and State highway 96 junction, then north on

Federal highway U.S.–283 to the Kansas–Nebraska State line, then east along the Kansas–Nebraska State line to its junction with the Kansas–Missouri State line, then southeast along the Kansas–Missouri State line to its junction with State highway K–68, then west on State highway K–68 to its junction with interstate highway I–35, then southwest on interstate highway I–35 to its junction with Butler County NE 150th Street, then west on Butler County NE 150th Street to its junction with Federal highway U.S.–77, then south on Federal highway U.S.–77 to its junction with the Kansas–Oklahoma State line, then west along the Kansas–Oklahoma State line to its junction with Federal highway U.S.–283, then north on Federal highway U.S.–283 to its junction with Federal highway U.S.–400, then east on Federal highway U.S.–400 to its junction with Ford Spearville Road, then east on Ford Spearville Road to Ford County Road 126 (South Stafford Street), then north on Ford County Road 126 to Garnett Road, then west on Garnett Road to Ford County Road 126, then north on Ford County Road 126 to Davis Street, then west on Davis Street to North Main Street, then north on North Main Street to its junction with Federal highway U.S.–56, then east on Federal highway U.S.–56 to its junction with Federal highway U.S.–183, then south on Federal highway U.S.–183 to its junction with Federal highway U.S.–54, then east on Federal highway U.S.–54 to its junction with Federal highway U.S.–281, then north on Federal highway U.S.–281 to its junction with State highway K–19, then west on State highway K–19 to its junction with Federal highway U.S.–56, then east on Federal highway U.S.–56 to its junction with State highway K–96, then southeast on State highway K–96 to its junction with State highway K–61, then northeast on State highway K–61 to its junction with McPherson County Arapaho Road, then east on McPherson County Arapaho Road to its junction with McPherson County 14th Avenue, then north on McPherson County 14th Avenue to its junction with State highway K–61, then east on State highway K–61 to its junction with interstate highway I–135, then north on interstate highway I–135 to its junction with State highway K–4, then west on State highway K–4 to its junction with Federal highway U.S.–281, then north on Federal highway U.S.–281 to its junction with State highway K–18, then east on State highway K–18 to its junction with Federal highway U.S.–181, then north on Federal highway U.S.–181 to its junction with Federal highway U.S.–24, then east on Federal highway U.S.–24 to its junction with State highway K–9, then east on State highway K–9 to its junction with Cloud County 40th Road, then north on Cloud County 40th Road to its junction with Republic County 50th Road, then north on Republic County 50th Road to its junction with State highway K–148, then west on State highway K–148 to its junction with Republic County 30th Road, then north on Republic County 30th Road to its junction with State highway K–199, then north on State highway K–199 to its junction with Federal highway U.S.–36, then west on Federal highway U.S.–36 to its junction with Federal highway U.S.–281, then south on Federal highway U.S.–281 to its junction with Federal highway U.S.–24, then west on Federal highway U.S.–24 to its junction with Federal highway U.S.–183, then south on Federal highway U.S.–183 to its junction with Federal highway U.S.–96, and then west on Federal highway U.S.–96 to its junction with Federal highway U.S.–283.

Southeast Zone: That part of Kansas bounded by a line from the Missouri–Kansas State line west on K–68 to its junction with I–35, then southwest on I–35 to its junction with Butler County, NE 150th Street, then west on NE 150th Street to its junction with Federal highway U.S.–77, then south on Federal highway U.S.–77 to the Oklahoma–Kansas State line, then east along the Kansas–Oklahoma State line to its junction with the Kansas–Missouri State line, then north along the Kansas–Missouri State line to its junction with State highway K–68.

Montana (Central Flyway Portion)

Zone 1: The Counties of Blaine, Carter, Daniels, Dawson, Fallon, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Powder River, Richland, Roosevelt, Sheridan, Stillwater, Sweet Grass, Valley, Wheatland, and Wibaux.

Zone 2: The Counties of Big Horn, Carbon, Custer, Prairie, Rosebud, Treasure, and Yellowstone.

Nebraska

High Plains: That portion of Nebraska lying west of a line beginning at the South Dakota–Nebraska border on U.S. Hwy 183; south on U.S. Hwy 183 to U.S. Hwy 20; west on U.S. Hwy 20 to NE Hwy 7; south on NE Hwy 7 to NE Hwy 91; southwest on NE Hwy 91 to NE Hwy 2; southeast on NE Hwy 2 to NE Hwy 92; west on NE Hwy 92 to NE Hwy 40; south on NE Hwy 40 to NE Hwy 47; south on NE Hwy 47 to NE Hwy 23; east on NE Hwy 23 to U.S. Hwy 283; and south on U.S. Hwy 283 to the Kansas–Nebraska border.

Zone 1: Area bounded by designated Federal and State highways and political boundaries beginning at the South Dakota–Nebraska border west of NE Hwy 26E Spur and north of NE Hwy 12; those portions of Dixon, Cedar, and Knox Counties north of NE Hwy 12; that portion of Keya Paha County east of U.S. Hwy 183; and all of Boyd County. Both banks of the Niobrara River in Keya Paha and Boyd Counties east of U.S. Hwy 183 shall be included in Zone 1.

Zone 2: The area south of Zone 1 and north of Zone 3.

Zone 3: Area bounded by designated Federal and State highways, County roads, and political boundaries beginning at the Wyoming–Nebraska border at the intersection of the Interstate Canal; east along northern borders of Scotts Bluff and Morrill Counties to Broadwater Road; south to Morrill County Rd 94; east to County Rd 135; south to County Rd 88; southeast to County Rd 151; south to County Rd 80; east to County Rd 161; south to County Rd 76; east to County Rd 165; south to County Rd 167; south to U.S. Hwy 26; east to County Rd 171; north to County Rd 68; east to County Rd 183; south to County Rd 64; east to County Rd 189; north to County Rd 70; east to County Rd 201; south to County Rd 60A; east to County Rd 203; south to County Rd 52; east to Keith County Line; east along the northern boundaries of Keith and Lincoln Counties to NE Hwy 97; south to U.S. Hwy 83; south to E Hall School Rd; east to N Airport Road; south to U.S. Hwy 30; east to NE Hwy 47; north to Dawson County Rd 769; east to County Rd 423; south to County Rd 766; east to County Rd 428; south to County Rd 763; east to NE Hwy 21 (Adams Street); south to County Rd 761; east to the Dawson County Canal; south and east along the Dawson County Canal to County Rd 444; south to U.S. Hwy 30; east to U.S. Hwy 183; north to Buffalo County Rd 100; east to 46th Avenue; north to NE Hwy 40; south and east to NE Hwy 10; north to Buffalo County Rd 220 and Hall County Husker Hwy; east to Hall County Rd 70; north to NE Hwy 2; east to U.S. Hwy 281; north to Chapman Rd; east to 7th Rd; south to U.S. Hwy 30; east to Merrick County Rd 13; north to County Rd O; east to NE Hwy 14; north to NE Hwy 52; west and north to NE Hwy 91; west to U.S. Hwy 281; south to NE Hwy 22; west to NE Hwy 11; northwest to NE Hwy 91; west to U.S. Hwy 183; south to Round Valley Rd; west to Sargent River Rd; west to Drive 443; north to Sargent Rd; west to NE Hwy S21A; west to NE Hwy 2; west and north to NE Hwy 91;

north and east to North Loup Spur Rd; north to North Loup River Rd; east to Pleasant Valley/Worth Rd; east to Loup County line; north to Loup–Brown County line; east along northern boundaries of Loup and Garfield Counties to Cedar River Rd; south to NE Hwy 70; east to U.S. Hwy 281; north to NE Hwy 70; east to NE Hwy 14; south to NE Hwy 39; southeast to NE Hwy 22; east to U.S. Hwy 81; southeast to U.S. Hwy 30; east to U.S. Hwy 75; north to the Washington County line; east to the Iowa–Nebraska border; south to the Missouri–Nebraska border; south to Kansas–Nebraska border; west along Kansas–Nebraska border to Colorado–Nebraska border; north and west to Wyoming–Nebraska border; north to intersection of Interstate Canal; and excluding that area in Zone 4.

Zone 4: Area encompassed by designated Federal and State highways and County roads beginning at the intersection of NE Hwy 8 and U.S. Hwy 75; north to U.S. Hwy 136; east to the intersection of U.S. Hwy 136 and the Steamboat Trace (Trace); north along the Trace to the intersection with Federal Levee R–562; north along Federal Levee R–562 to the intersection with Nemaha County Rd 643A; south to the Trace; north along the Trace/Burlington Northern Railroad right-of-way to NE Hwy 2; west to U.S. Hwy 75; north to NE Hwy 2; west to NE Hwy 50; north to U.S. Hwy 34; west to NE Hwy 63; north to NE Hwy 66; north and west to U.S. Hwy 77; north to NE Hwy 92; west to NE Hwy Spur 12F; south to Butler County Rd 30; east to County Rd X; south to County Rd 27; west to County Rd W; south to County Rd 26; east to County Rd X; south to County Rd 21 (Seward County Line); west to NE Hwy 15; north to County Rd 34; west to County Rd H; south to NE Hwy 92; west to U.S. Hwy 81; south to NE Hwy 66; west to Polk County Rd C; north to NE Hwy 92; west to U.S. Hwy 30; west to Merrick County Rd 17; south to Hordlake Road; southeast to Prairie Island Road; southeast to Hamilton County Rd T; south to NE Hwy 66; west to NE Hwy 14; south to County Rd 22; west to County Rd M; south to County Rd 21; west to County Rd K; south to U.S. Hwy 34; west to NE Hwy 2; south to U.S. Hwy I–80; west to Gunbarrel Rd (Hall/Hamilton County line); south to Giltner Rd; west to U.S. Hwy 281; south to Lochland Rd; west to Holstein Avenue; south to U.S. Hwy 34; west to NE Hwy 10; north to Kearney County Rd R and Phelps County Rd 742; west to U.S. Hwy 283; south to U.S. Hwy 34; east to U.S. Hwy 136; east to U.S. Hwy 183; north to NE Hwy 4; east to NE Hwy 10; south to U.S. Hwy 136; east to NE Hwy 14; south to NE Hwy 8; east to U.S. Hwy 81; north to NE Hwy 4; east to NE Hwy 15; south to U.S. Hwy 136; east to Jefferson County Rd 578 Avenue; south to PWF Rd; east to NE Hwy 103; south to NE Hwy 8; east to U.S. Hwy 75.

New Mexico (Central Flyway Portion)

North Zone: That portion of the State north of I–40 and U.S. 54.

South Zone: The remainder of New Mexico.

North Dakota

High Plains Unit: That portion of the State south and west of a line beginning at the junction of U.S. Hwy 83 and the South Dakota State line, then north along U.S. Hwy 83 and I–94 to ND Hwy 41, then north on ND Hwy 41 to ND Hwy 53, then west on ND Hwy 53 to U.S. Hwy 83, then north on U.S. Hwy 83 to U.S. Hwy 2, then west on U.S. Hwy 2 to the Williams County line, then north and west along the Williams and Divide County lines to the Canadian border.

Low Plains Unit: The remainder of North Dakota.

Oklahoma

High Plains Zone: The Counties of Beaver, Cimarron, and Texas.

Low Plains Zone 1: That portion of the State east of the High Plains Zone and north of a line extending east from the Texas State line along OK 33 to OK 47, east along OK 47 to U.S. 183, south along U.S. 183 to I–40, east along I–40 to U.S. 177, north along U.S. 177 to OK 33, east along OK 33 to OK 18, north along OK 18 to OK 51, west along OK 51 to I–35, north along I–35 to U.S. 412, west along U.S. 412 to OK 132, then north along OK 132 to the Kansas State line.

Low Plains Zone 2: The remainder of Oklahoma.

South Dakota

High Plains Zone: That portion of the State west of a line beginning at the North Dakota State line and extending south along U.S. 83 to U.S. 14, east on U.S. 14 to Blunt, south on the Blunt–Canning Rd to SD 34, east and south on SD 34 to SD 50 at Lee's Corner, south on SD 50 to I–90, east on I–90 to SD 50, south on SD 50 to SD 44, west on SD 44 across the Platte–Winner bridge to SD 47, south on SD 47 to U.S. 18, east on U.S. 18 to SD 47, south on SD 47 to the Nebraska State line.

North Zone: That portion of northeastern South Dakota east of the High Plains Unit and north of a line extending east along U.S. 212 to the Minnesota State line.

South Zone: That portion of Gregory County east of SD 47 and south of SD 44; Charles Mix County south of SD 44 to the Douglas County line; south on SD 50 to Geddes; east on the Geddes Highway to U.S. 281; south on U.S. 281 and U.S. 18 to SD 50; south and east on SD 50 to the Bon Homme County line; the Counties of Bon Homme, Yankton, and Clay south of SD 50; and Union County south and west of SD 50 and I–29.

Middle Zone: The remainder of South Dakota.

Texas

High Plains Zone: That portion of the State west of a line extending south from the Oklahoma State line along U.S. 183 to Vernon, south along U.S. 283 to Albany, south along TX 6 to TX 351 to Abilene, south along U.S. 277 to Del Rio, then south along the Del Rio International Toll Bridge access road to the Mexico border.

Low Plains North Zone: That portion of northeastern Texas east of the High Plains Zone and north of a line beginning at the International Toll Bridge south of Del Rio, then extending east on U.S. 90 to San Antonio, then continuing east on I–10 to the Louisiana State line at Orange, Texas.

Low Plains South Zone: The remainder of Texas.

Wyoming (Central Flyway portion)

Zone C1: Big Horn, Converse, Goshen, Hot Springs, Natrona, Park, Platte, and Washakie Counties; and Fremont County excluding the portions west or south of the Continental Divide.

Zone C2: Campbell, Crook, Johnson, Niobrara, Sheridan, and Weston Counties.

Zone C3: Albany and Laramie Counties; and that portion of Carbon County east of the Continental Divide.

Pacific Flyway

Arizona

North Zone: Game Management Units 1–5, those portions of Game Management Units 6 and 8 within Coconino County, and Game Management Units 7, 9, and 12A.

South Zone: Those portions of Game Management Units 6 and 8 in Yavapai County, and Game Management Units 10 and 12B–45.

California

Northeastern Zone: That portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California–Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane

to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to Main Street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California–Nevada State line; north along the California–Nevada State line to the junction of the California–Nevada–Oregon State lines; west along the California–Oregon State line to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line from the intersection of Highway 95 with the California–Nevada State line; south on Highway 95 through the junction with Highway 40; south on Highway 95 to Vidal Junction; south through the town of Rice to the San Bernardino–Riverside County line on a road known as ''Aqueduct Road'' also known as Highway 62 in San Bernardino County; southwest on Highway 62 to Desert Center Rice Road; south on Desert Center Rice Road/Highway 177 to the town of Desert Center; east 31 miles on Interstate 10 to its intersection with Wiley Well Road; south on Wiley Well Road to Wiley Well; southeast on Milpitas Wash Road to the Blythe, Brawley, Davis Lake intersections; south on Blythe Ogilby Road also known as County Highway 34 to its intersection with Ogilby Road; south on Ogilby Road to its intersection with Interstate 8; east 7 miles on Interstate 8 to its intersection with the Andrade-Algodones Road/Highway 186; south on Highway 186 to its intersection with the U.S. Mexico border at Los Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River zone) south and east of a line beginning at the mouth of the Santa Maria River at the Pacific Ocean; east along the Santa Maria River to where it crosses Highway 101–166 near the City of Santa Maria; north on Highway 101–166; east on Highway 166 to the junction with Highway 99; south on Highway 99 to the junction of Interstate 5; south on Interstate 5 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to where it intersects Highway 178 at Walker Pass; east on Highway 178 to the junction of Highway 395 at the town of Inyokern; south on Highway 395 to the junction of Highway 58; east on Highway 58 to the junction of Interstate 15; east on Interstate 15 to the junction with Highway 127; north on Highway 127 to the point of intersection with the California–Nevada State line.

Southern San Joaquin Valley Zone: All of Kings and Tulare Counties and that portion of Kern County north of the Southern Zone.

Balance of State Zone: The remainder of California not included in the Northeastern, Colorado River, Southern, and the Southern San Joaquin Valley Zones.

Colorado (Pacific Flyway Portion)

Eastern Zone: Routt, Grand, Summit, Eagle, and Pitkin Counties, those portions of Saguache, San Juan, Hinsdale, and Mineral Counties west of the Continental Divide, those portions of Gunnison County except the North Fork of the Gunnison River Valley (Game Management Units 521, 53, and 63), and that portion of Moffat County east of the northern intersection of Moffat County Road 29 with the Moffat–Routt County line, south along Moffat County Road 29 to the intersection of Moffat County Road 29 with the Moffat–Routt County line (Elkhead Reservoir State Park).

Western Zone: All areas west of the Continental Divide not included in the Eastern Zone.

Idaho

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County east of State Highway 37 and State Highway 39.

Zone 2: Bear Lake, Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties; Bingham County within the Blackfoot Reservoir drainage; and Caribou County except within the Fort Hall Indian Reservation.

Zone 3: Ada, Adams, Benewah, Blaine, Boise, Bonner, Boundary, Camas, Canyon, Cassia, Clearwater, Custer, Elmore, Franklin, Gem, Gooding, Idaho, Jerome, Kootenai, Latah, Lemhi, Lewis, Lincoln, Minidoka, Nez Perce, Oneida, Owyhee, Payette, Shoshone, Twin Falls, and Washington Counties; and Power County west of State Highway 37 and State Highway 39.

Zone 4: Valley County.

Nevada

Northeast Zone: Elko and White Pine Counties.

Northwest Zone: Carson City, Churchill, Douglas, Esmeralda, Eureka, Humboldt, Lander, Lyon, Mineral, Nye, Pershing, Storey, and Washoe Counties.

South Zone: Clark and Lincoln Counties.

Moapa Valley Special Management Area: That portion of Clark County including the Moapa Valley to the confluence of the Muddy and Virgin Rivers.

Oregon

Zone 1: Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Gilliam, Hood River, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Wasco, Washington, and Yamhill, Counties.

Zone 2: The remainder of Oregon not included in Zone 1.

Utah

Zone 1: Box Elder, Cache, Daggett, Davis, Duchesne, Morgan, Rich, Salt Lake, Summit, Uintah, Utah, Wasatch, and Weber Counties, and that part of Toole County north of I–80.

Zone 2: The remainder of Utah not included in Zone 1.

Washington

East Zone: All areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

West Zone: The remainder of Washington not included in the East Zone.

Wyoming (Pacific Flyway Portion)

Snake River Zone: Beginning at the south boundary of Yellowstone National Park and the Continental Divide; south along the Continental Divide to Union Pass and the Union Pass Road (U.S.F.S. Road 600); west and south along the Union Pass Road to U.S.F.S. Road 605; south along U.S.F.S. Road 605 to the Bridger–Teton National Forest boundary; along the national forest boundary to the Idaho State line; north along the Idaho State line to the south boundary of Yellowstone National Park; east along the Yellowstone National Park boundary to the Continental Divide.

Balance of State Zone: The remainder of the Pacific Flyway portion of Wyoming not included in the Snake River Zone.

Geese

Atlantic Flyway

Connecticut

Early Canada Goose Seasons

South Zone: Same as for ducks.

North Zone: Same as for ducks.

Regular Seasons

AP Unit: Litchfield County and the portion of Hartford County west of a line beginning at the Massachusetts border in Suffield and extending south along Route 159 to its intersection with I–91 in Hartford, and then extending south along I–91 to its intersection with the Hartford–Middlesex County line.

NAP H–Unit: That part of the state east of a line beginning at the Massachusetts border in Suffield and extending south along Route 159 to its intersection with I–91 in Hartford and then extending south along I–91 to State Street in New Haven; then south on State Street to Route 34, west on Route 34 to Route 8, south along Route 8 to Route 110, south along Route 110 to Route 15, north along Route 15 to the Milford Parkway, south along the Milford Parkway to I–95, north along I–95 to the intersection with the east shore of the Quinnipiac River, south to the mouth of the Quinnipiac River and then south along the eastern shore of New Haven Harbor to the Long Island Sound.

Atlantic Flyway Resident Population (AFRP) Unit: Remainder of the State not included in AP and NAP Units.

South Zone: Same as for ducks.

Maine

North NAP–H Zone: Same as North Zone for ducks.

Coastal NAP–L Zone: Same as Coastal Zone for ducks.

South NAP–H Zone: Same as South Zone for ducks.

Maryland

Early Canada Goose Seasons

Eastern Unit: Calvert, Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties; and that part of Anne Arundel County east of Interstate 895, Interstate 97, and Route 3; that part of Prince George's County east of Route 3 and Route 301; and that part of Charles County east of Route 301 to the Virginia State line.

Western Unit: Allegany, Baltimore, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington Counties and that part of Anne Arundel County west of Interstate 895, Interstate 97, and Route 3; that part of Prince George's County west of Route 3 and Route 301; and that part of Charles County west of Route 301 to the Virginia State line.

Regular Seasons

Resident Population (RP) Zone: Allegany, Frederick, Garrett, Montgomery, and Washington Counties; that portion of Prince George's County west of Route 3 and Route 301; that portion of Charles County west of Route 301 to the Virginia State line; and that portion of Carroll County west of Route 31 to the intersection of Route 97, and west of Route 97 to the Pennsylvania State line.

AP Zone: Remainder of the State.

Massachusetts

NAP Zone: Central and Coastal Zones (see duck zones).

AP Zone: The Western Zone (see duck zones).

Special Late Season Area: The Central Zone and that portion of the Coastal Zone (see duck zones) that lies north of the Cape Cod Canal, north to the New Hampshire State line.

New Hampshire

Same zones as for ducks.

New Jersey

AP Zone: North and South Zones (see duck zones).

NAP Zone: The Coastal Zone (see duck zones).

Special Late Season Area: In northern New Jersey, that portion of the State within a continuous line that runs east along the New York State boundary line to the Hudson River; then south along the New York State boundary to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with Route 287; then west along Route 287 to its intersection with Route 206 in Bedminster (Exit 18); then north along Route 206 to its intersection with Route 94; then west along Route 94 to the toll bridge in Columbia; then north along the Pennsylvania State boundary in the Delaware River to the beginning point. In southern New Jersey, that portion of the State within a continuous line that runs west from the Atlantic Ocean at Ship Bottom along Route 72 to Route 70; then west along Route 70 to Route 206; then south along Route 206 to Route 536; then west along Route 536 to Route 322; then west along Route 322 to Route 55; then south along Route 55 to Route 553 (Buck Road); then south along Route 553 to Route 40; then east along Route 40 to route 55; then south along Route 55 to Route 552 (Sherman Avenue); then west along Route 552 to Carmel Road; then south along Carmel Road to Route 49; then east along Route 49 to Route 555; then south along Route 555 to Route 553; then east along Route 553 to Route 649; then north along Route 649 to Route 670; then east along Route 670 to Route 47; then north along Route 47 to Route 548; then east along Route 548 to Route 49; then east along Route 49 to Route 50; then south along Route 50 to Route 9; then south along Route 9 to Route 625 (Sea Isle City Boulevard); then east along Route 625 to the Atlantic Ocean; then north to the beginning point.

New York

Lake Champlain Goose Area: The same as the Lake Champlain Waterfowl Hunting Zone, which is that area of New York State lying east and north of a continuous line extending along Route 11 from the New York–Canada International boundary south to Route 9B, south along Route 9B to Route 9, south along Route 9 to Route 22 south of Keeseville, south along Route 22 to the west shore of South Bay along and around the shoreline of South Bay to Route 22 on the east shore of South Bay, southeast along Route 22 to Route 4, northeast along Route 4 to the New York–Vermont boundary.

Northeast Goose Area: The same as the Northeastern Waterfowl Hunting Zone, which is that area of New York State lying north of a continuous line extending from Lake Ontario east along the north shore of the Salmon River to Interstate 81, south along Interstate 81 to Route 31, east along Route 31 to Route 13, north along Route 13 to Route 49, east along Route 49 to Route 365, east along Route 365 to Route 28, east along Route 28 to Route 29, east along Route 29 to Route 22 at Greenwich Junction, north along Route 22 to Washington County Route 153, east along CR 153 to the New York–Vermont boundary, exclusive of the Lake Champlain Zone.

East Central Goose Area: That area of New York State lying inside of a continuous line extending from Interstate Route 81 in Cicero, east along Route 31 to Route 13, north along Route 13 to Route 49, east along Route 49 to Route 365, east along Route 365 to Route 28, east along Route 28 to Route 29, east along Route 29 to Route 147 at Kimball Corners, south along Route 147 to Schenectady County Route 40 (West Glenville Road), west along Route 40 to Touareuna Road, south along Touareuna Road to Schenectady County Route 59, south along Route 59 to State Route 5, east along Route 5 to the Lock 9 bridge, southwest along the Lock 9 bridge to Route 5S, southeast along Route 5S to Schenectady County Route 58, southwest along Route 58 to the NYS Thruway, south along the Thruway to Route 7, southwest along Route 7 to

Schenectady County Route 103, south along Route 103 to Route 406, east along Route 406 to Schenectady County Route 99 (Windy Hill Road), south along Route 99 to Dunnsville Road, south along Dunnsville Road to Route 397, southwest along Route 397 to Route 146 at Altamont, west along Route 146 to Albany County Route 252, northwest along Route 252 to Schenectady County Route 131, north along Route 131 to Route 7, west along Route 7 to Route 10 at Richmondville, south on Route 10 to Route 23 at Stamford, west along Route 23 to Route 7 in Oneonta, southwest along Route 7 to Route 79 to Interstate Route 88 near Harpursville, west along Route 88 to Interstate Route 81, north along Route 81 to the point of beginning.

West Central Goose Area: That area of New York State lying within a continuous line beginning at the point where the northerly extension of Route 269 (County Line Road on the Niagara–Orleans County boundary) meets the International boundary with Canada, south to the shore of Lake Ontario at the eastern boundary of Golden Hill State Park, south along the extension of Route 269 and Route 269 to Route 104 at Jeddo, west along Route 104 to Niagara County Route 271, south along Route 271 to Route 31E at Middleport, south along Route 31E to Route 31, west along Route 31 to Griswold Street, south along Griswold Street to Ditch Road, south along Ditch Road to Foot Road, south along Foot Road to the north bank of Tonawanda Creek, west along the north bank of Tonawanda Creek to Route 93, south along Route 93 to Route 5, east along Route 5 to Crittenden–Murrays Corners Road, south on Crittenden–Murrays Corners Road to the NYS Thruway, east along the Thruway 90 to Route 98 (at Thruway Exit 48) in Batavia, south along Route 98 to Route 20, east along Route 20 to Route 19 in Pavilion Center, south along Route 19 to Route 63, southeast along Route 63 to Route 246, south along Route 246 to Route 39 in Perry, northeast along Route 39 to Route 20A, northeast along Route 20A to Route 20, east along Route 20 to Route 364 (near Canandaigua), south and east along Route 364 to Yates County Route 18 (Italy Valley Road), southwest along Route 18 to Yates County Route 34, east along Route 34 to Yates County Route 32, south along Route 32 to Steuben County Route 122, south along Route 122 to Route 53, south along Route 53 to Steuben County Route 74, east along Route 74 to Route 54A (near Pulteney), south along Route 54A to Steuben County Route 87, east along Route 87 to Steuben County Route 96, east along Route 96 to Steuben County Route 114, east along Route 114 to Schuyler County Route 23, east and southeast along Route 23 to Schuyler County Route 28, southeast along Route 28 to Route 409 at Watkins Glen, south along Route 409 to Route 14, south along Route 14 to Route 224 at Montour Falls, east along Route 224 to Route 228 in Odessa, north along Route 228 to Route 79 in Mecklenburg, east along Route 79 to Route 366 in Ithaca, northeast along Route 366 to Route 13, northeast along Route 13 to Interstate Route 81 in Cortland, north along Route 81 to the north shore of the Salmon River to shore of Lake Ontario, extending generally northwest in a straight line to the nearest point of the international boundary with Canada, south and west along the international boundary to the point of beginning.

Hudson Valley Goose Area: That area of New York State lying within a continuous line extending from Route 4 at the New York–Vermont boundary, west and south along Route 4 to Route 149 at Fort Ann, west on Route 149 to Route 9, south along Route 9 to Interstate Route 87 (at Exit 20 in Glens Falls), south along Route 87 to Route 29, west along Route 29 to Route 147 at Kimball Corners, south along Route 147 to Schenectady County Route 40 (West Glenville Road), west along Route 40 to Touareuna Road, south along Touareuna Road to Schenectady County Route 59, south along Route 59 to State Route 5, east along Route 5 to the Lock 9 bridge, southwest along the Lock 9 bridge to Route 5S, southeast along Route 5S to Schenectady County Route 58, southwest along Route 58 to the NYS Thruway, south along the Thruway to Route 7, southwest along Route 7 to Schenectady County Route 103, south along Route 103 to Route 406, east along Route 406 to Schenectady County Route 99 (Windy Hill Road), south along Route 99 to Dunnsville Road, south along Dunnsville Road to Route 397, southwest along Route 397 to Route 146 at Altamont, southeast along Route 146 to Main Street in Altamont, west along Main Street to Route 156, southeast along Route 156 to Albany County Route 307, southeast along Route 307 to Route 85A, southwest along Route 85A to Route 85, south along Route 85 to Route 443, southeast along Route 443 to Albany County Route 301 at Clarksville, southeast along Route 301 to Route 32, south along Route 32 to Route 23 at Cairo, west along Route 23 to Joseph Chadderdon Road, southeast along Joseph Chadderdon Road to Hearts Content Road (Greene County Route 31), southeast along Route 31 to Route 32, south along Route 32 to Greene County Route 23A, east along Route 23A to Interstate Route 87 (the NYS Thruway), south along Route 87 to Route 28 (Exit 19) near Kingston, northwest on Route 28 to Route 209, southwest on Route 209 to the New York–Pennsylvania boundary, southeast along the New York–Pennsylvania boundary to the New York–New Jersey boundary, southeast along the New York–New Jersey boundary to Route 210 near Greenwood Lake, northeast along Route 210 to Orange County Route 5, northeast along Orange County Route 5 to Route 105 in the Village of Monroe, east and north along Route 105 to Route 32, northeast along Route 32 to Orange County Route 107 (Quaker Avenue), east along Route 107 to Route 9W, north along Route 9W to the south bank of Moodna Creek, southeast along the south bank of Moodna Creek to the New Windsor–Cornwall town boundary, northeast along the New Windsor–Cornwall town boundary to the Orange–Dutchess County boundary (middle of the Hudson River), north along the county boundary to Interstate Route 84, east along Route 84 to the Dutchess–Putnam County boundary, east along the county boundary to the New York–Connecticut boundary, north along the New York–Connecticut boundary to the New York–Massachusetts boundary, north along the New York–Massachusetts boundary to the New York–Vermont boundary, north to the point of beginning.

Eastern Long Island Goose Area (NAP High Harvest Area): That area of Suffolk County lying east of a continuous line extending due south from the New York–Connecticut boundary to the northernmost end of Roanoke Avenue in the Town of Riverhead; then south on Roanoke Avenue (which becomes County Route 73) to State Route 25; then west on Route 25 to Peconic Avenue; then south on Peconic Avenue to County Route (CR) 104 (Riverleigh Avenue); then south on CR 104 to CR 31 (Old Riverhead Road); then south on CR 31 to Oak Street; then south on Oak Street to Potunk Lane; then west on Stevens Lane; then south on Jessup Avenue (in Westhampton Beach) to Dune Road (CR 89); then due south to international waters.

Western Long Island Goose Area (RP Area): That area of Westchester County and its tidal waters southeast of Interstate Route 95 and that area of Nassau and Suffolk Counties lying west of a continuous line extending due south from the New York–Connecticut boundary to the northernmost end of Sound Road (just east of Wading River Marsh); then south on Sound Road to

North Country Road; then west on North Country Road to Randall Road; then south on Randall Road to Route 25A, then west on Route 25A to the Sunken Meadow State Parkway; then south on the Sunken Meadow Parkway to the Sagtikos State Parkway; then south on the Sagtikos Parkway to the Robert Moses State Parkway; then south on the Robert Moses Parkway to its southernmost end; then due south to international waters.

Central Long Island Goose Area (NAP Low Harvest Area): That area of Suffolk County lying between the Western and Eastern Long Island Goose Areas, as defined above.

South Goose Area: The remainder of New York State, excluding New York City.

North Carolina

Northeast Hunt Unit: Includes the following counties or portions of counties: Bertie (that portion north and east of a line formed by NC 45 at the Washington County line to U.S. 17 in Midway, U.S. 17 in Midway to U.S. 13 in Windsor, U.S. 13 in Windsor to the Hertford County line), Camden, Chowan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington.

RP Hunt Zone: Remainder of the State.

Pennsylvania

Resident Canada Goose Zone: All of Pennsylvania except for SJBP Zone and the area east of route SR 97 from the Maryland State Line to the intersection of SR 194, east of SR 194 to intersection of U.S. Route 30, south of U.S. Route 30 to SR 441, east of SR 441 to SR 743, east of SR 743 to intersection of I–81, east of I–81 to intersection of I–80, and south of I–80 to the New Jersey State line.

SJBP Zone: The area north of I–80 and west of I–79 including in the city of Erie west of Bay Front Parkway to and including the Lake Erie Duck zone (Lake Erie, Presque Isle, and the area within 150 yards of the Lake Erie Shoreline).

AP Zone: The area east of route SR 97 from Maryland State Line to the intersection of SR 194, east of SR 194 to intersection of U.S. Route 30, south of U.S. Route 30 to SR 441, east of SR 441 to SR 743, east of SR 743 to intersection of I–81, east of I–81 to intersection of I–80, south of I–80 to New Jersey State line.

Rhode Island

Special Area for Canada Geese: Kent and Providence Counties and portions of the towns of Exeter and North Kingston within Washington County (see State regulations for detailed descriptions).

South Carolina

Canada Goose Area: Statewide except for the following area:

East of U.S. 301: That portion of Clarendon County bounded to the North by S–14–25, to the East by Hwy 260, and to the South by the markers delineating the channel of the Santee River.

West of U.S. 301: That portion of Clarendon County bounded on the North by S–14–26 extending southward to that portion of Orangeburg County bordered by Hwy 6.

Vermont

Same zones as for ducks.

Virginia

AP Zone: The area east and south of the following line—the Stafford County line from the Potomac River west to Interstate 95 at Fredericksburg, then south along Interstate 95 to Petersburg, then Route 460 (SE) to City of Suffolk, then south along Route 32 to the North Carolina line.

SJBP Zone: The area to the west of the AP Zone boundary and east of the following line: the ''Blue Ridge'' (mountain spine) at the West Virginia–Virginia Border (Loudoun County–Clarke County line) south to Interstate 64 (the Blue Ridge line follows county borders along the western edge of Loudoun–Fauquier–Rappahannock–Madison–Greene–Albemarle and into Nelson Counties), then east along Interstate Rte. 64 to Route 15, then south along Rte. 15 to the North Carolina line.

RP Zone: The remainder of the State west of the SJBP Zone.

Mississippi Flyway

Arkansas

Northwest Zone: Baxter, Benton, Boone, Carroll, Conway, Crawford, Faulkner, Franklin, Johnson, Logan, Madison, Marion, Newton, Perry, Pope, Pulaski, Searcy, Sebastian, Scott, Van Buren, Washington, and Yell Counties.

Remainder of State: That portion of the State outside of the Northwest Zone.

Illinois

Early Canada Goose Seasons

North September Canada Goose Zone: That portion of the State north of a line extending west from the Indiana border along Interstate 80 to I–39, south along I–39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central September Canada Goose Zone: That portion of the State south of the North September Canada Goose Zone line to a line extending west from the Indiana border along I–70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 3, south along Illinois Route 3 to St. Leo's Road, south along St. Leo's road to Modoc Road, west along Modoc Road to Modoc Ferry Road, southwest along Modoc Ferry Road to Levee Road, southeast along Levee Road to County Route 12 (Modoc Ferry entrance Road), south along County Route 12 to the Modoc Ferry route and southwest on the Modoc Ferry route across the Mississippi River to the Missouri border.

South September Canada Goose Zone: That portion of the State south and east of a line extending west from the Indiana border along Interstate 70, south along U.S. Highway 45, to Illinois Route 13, west along Illinois Route 13 to Greenbriar Road, north on Greenbriar Road to Sycamore Road, west on Sycamore Road to N. Reed Station Road, south on N. Reed Station Road to Illinois Route 13, west along Illinois Route 13 to Illinois Route 127, south along Illinois Route 127 to State Forest Road (1025 N), west along State Forest Road to Illinois Route 3, north along Illinois Route 3 to the south bank of the Big Muddy River, west along the south bank of the Big Muddy River to the Mississippi River, west across the Mississippi River to the Missouri border.

South Central September Canada Goose Zone: The remainder of the State between the south border of the Central September Canada Goose Zone and the north border of the South September Canada Goose Zone.

Regular Seasons

North Zone: That portion of the State north of a line extending west from the Indiana border along Interstate 80 to I–39, south along I–39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central Zone: That portion of the State south of the North Goose Zone line to a line extending west from the Indiana border along I–70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois

Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 3, south along Illinois Route 3 to St. Leo's Road, south along St. Leo's road to Modoc Road, west along Modoc Road to Modoc Ferry Road, southwest along Modoc Ferry Road to Levee Road, southeast along Levee Road to County Route 12 (Modoc Ferry entrance Road), south along County Route 12 to the Modoc Ferry route and southwest on the Modoc Ferry route across the Mississippi River to the Missouri border.

South Zone: Same zone as for ducks.

South Central Zone: Same zone as for ducks.

Indiana

Same zones as for ducks.

Iowa

Early Canada Goose Seasons

Cedar Rapids/Iowa City Goose Zone: Includes portions of Linn and Johnson Counties bounded as follows: Beginning at the intersection of the west border of Linn County and Linn County Road E2W; then south and east along County Road E2W to Highway 920; then north along Highway 920 to County Road E16; then east along County Road E16 to County Road W58; then south along County Road W58 to County Road E34; then east along County Road E34 to Highway 13; then south along Highway 13 to Highway 30; then east along Highway 30 to Highway 1; then south along Highway 1 to Morse Road in Johnson County; then east along Morse Road to Wapsi Avenue; then south along Wapsi Avenue to Lower West Branch Road; then west along Lower West Branch Road to Taft Avenue; then south along Taft Avenue to County Road F62; then west along County Road F62 to Kansas Avenue; then north along Kansas Avenue to Black Diamond Road; then west on Black Diamond Road to Jasper Avenue; then north along Jasper Avenue to Rohert Road; then west along Rohert Road to Ivy Avenue; then north along Ivy Avenue to 340th Street; then west along 340th Street to Half Moon Avenue; then north along Half Moon Avenue to Highway 6; then west along Highway 6 to Echo Avenue; then north along Echo Avenue to 250th Street; then east on 250th Street to Green Castle Avenue; then north along Green Castle Avenue to County Road F12; then west along County Road F12 to County Road W30; then north along County Road W30 to Highway 151; then north along the Linn–Benton County line to the point of beginning.

Des Moines Goose Zone: Includes those portions of Polk, Warren, Madison, and Dallas Counties bounded as follows: Beginning at the intersection of Northwest 158th Avenue and County Road R38 in Polk County; then south along R38 to Northwest 142nd Avenue; then east along Northwest 142nd Avenue to Northeast 126th Avenue; then east along Northeast 126th Avenue to Northeast 46th Street; then south along Northeast 46th Street to Highway 931; then east along Highway 931 to Northeast 80th Street; then south along Northeast 80th Street to Southeast 6th Avenue; then west along Southeast 6th Avenue to Highway 65; then south and west along Highway 65 to Highway 69 in Warren County; then south along Highway 69 to County Road G24; then west along County Road G24 to Highway 28; then southwest along Highway 28 to 43rd Avenue; then north along 43rd Avenue to Ford Street; then west along Ford Street to Filmore Street; then west along Filmore Street to 10th Avenue; then south along 10th Avenue to 155th Street in Madison County; then west along 155th Street to Cumming Road; then north along Cumming Road to Badger Creek Avenue; then north along Badger Creek Avenue to County Road F90 in Dallas County; then east along County Road F90 to County Road R22; then north along County Road R22 to Highway 44; then east along Highway 44 to County Road R30; then north along County Road R30 to County Road F31; then east along County Road F31 to Highway 17; then north along Highway 17 to Highway 415 in Polk County; then east along Highway 415 to Northwest 158th Avenue; then east along Northwest 158th Avenue to the point of beginning.

Cedar Falls/Waterloo Goose Zone: Includes those portions of Black Hawk County bounded as follows: Beginning at the intersection of County Roads C66 and V49 in Black Hawk County, then south along County Road V49 to County Road D38, then west along County Road D38 to State Highway 21, then south along State Highway 21 to County Road D35, then west along County Road D35 to Grundy Road, then north along Grundy Road to County Road D19, then west along County Road D19 to Butler Road, then north along Butler Road to County Road C57, then north and east along County Road C57 to U.S. Highway 63, then south along U.S. Highway 63 to County Road C66, then east along County Road C66 to the point of beginning.

Regular Seasons

Same zones as for ducks.

Louisiana

North Zone: That portion of the State north of the line from the Texas border at Hwy 190/12 east to Hwy 49, then south on Hwy 49 to I–10, then east on I–10 to I–12, then east on I–12 to I–10, then east on I–10 to the Mississippi State line.

South Zone: Remainder of the State.

Michigan

North Zone: Same as North duck zone.

Middle Zone: Same as Middle duck zone.

South Zone: Same as South duck zone.

Allegan County Game Management Unit (GMU): That area encompassed by a line beginning at the junction of 136th Avenue and Interstate Highway 196 in Lake Town Township and extending easterly along 136th Avenue to Michigan Highway 40, southerly along Michigan 40 through the city of Allegan to 108th Avenue in Trowbridge Township, westerly along 108th Avenue to 46th Street, northerly along 46th Street to 109th Avenue, westerly along 109th Avenue to I–196 in Casco Township, then northerly along I–196 to the point of beginning.

Muskegon Wastewater GMU: That portion of Muskegon County within the boundaries of the Muskegon County wastewater system, east of the Muskegon State Game Area, in sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 32, T10N R14W, and sections 1, 2, 10, 11, 12, 13, 14, 24, and 25, T10N R15W, as posted.

Minnesota

Same zones as for ducks.

Missouri

Same zones as for ducks.

Ohio

Same zones as for ducks.

Tennessee

Reelfoot Zone: The lands and waters within the boundaries of Reelfoot Lake WMA only.

Remainder of State: The remainder of the State.

Wisconsin

Early Canada Goose Seasons

Early-Season Subzone A: That portion of the State encompassed by a line beginning at the intersection of U.S. Highway 141 and the Michigan border near Niagara, then south along U.S. 141 to State Highway 22, west and southwest along State 22 to U.S. 45, south along U.S. 45 to State 22, west

and south along State 22 to State 110, south along State 110 to U.S. 10, south along U.S. 10 to State 49, south along State 49 to State 23, west along State 23 to State 73, south along State 73 to State 60, west along State 60 to State 23, south along State 23 to State 11, east along State 11 to State 78, then south along State 78 to the Illinois border.

Early-Season Subzone B: The remainder of the State.

Regular Seasons

Same zones as for ducks.

Central Flyway

Colorado (Central Flyway Portion)

Northern Front Range Area: All areas in Boulder, Larimer, and Weld Counties from the Continental Divide east along the Wyoming border to U.S. 85, south on U.S. 85 to the Adams County line, and all lands in Adams, Arapahoe, Broomfield, Clear Creek, Denver, Douglas, Gilpin, and Jefferson Counties.

North Park Area: Jackson County.

South Park Area: Chaffee, Custer, Fremont, Lake, Park, and Teller Counties.

San Luis Valley Area: All of Alamosa, Conejos, Costilla, and Rio Grande Counties, and those portions of Saguache, Mineral, and Hinsdale Counties east of the Continental Divide.

Remainder: Remainder of the Central Flyway portion of Colorado.

Eastern Colorado Late Light Goose Area: That portion of the State east of Interstate Highway 25.

Montana (Central Flyway Portion)

Zone 1: Same as Zone 1 for ducks and coots.

Zone 2: Same as Zone 2 for ducks and coots.

Nebraska

Dark Geese

Niobrara Unit: That area contained within and bounded by the intersection of the South Dakota State line and the eastern Cherry County line, south along the Cherry County line to the Niobrara River, east to the Norden Road, south on the Norden Road to U.S. Hwy 20, east along U.S. Hwy 20 to NE Hwy 14, north along NE Hwy 14 to NE Hwy 59 and County Road 872, west along County Road 872 to the Knox County Line, north along the Knox County Line to the South Dakota State line. Where the Niobrara River forms the boundary, both banks of the river are included in the Niobrara Unit.

East Unit: That area north and east of U.S. 81 at the Kansas–Nebraska State line, north to NE Hwy 91, east to U.S. 275, south to U.S. 77, south to NE 91, east to U.S. 30, east to the Nebraska–Iowa State line.

Platte River Unit: That area north and west of U.S. 81 at the Kansas–Nebraska State line, north to NE Hwy 91, west along NE 91 to NE 11, north to the Holt County line, west along the northern border of Garfield, Loup, Blaine, and Thomas Counties to the Hooker County line, south along the Thomas–Hooker County lines to the McPherson County line, east along the south border of Thomas County to the western line of Custer County, south along the Custer–Logan County line to NE 92, west to U.S. 83, north to NE 92, west to NE 61, south along NE 61 to NE 92, west along NE 92 to U.S. Hwy 26, south along U.S. Hwy 26 to Keith County Line, south along Keith County Line to the Colorado State line.

Panhandle Unit: That area north and west of Keith–Deuel County Line at the Nebraska–Colorado State line, north along the Keith County Line to U.S. Hwy 26, west to NE Hwy 92, east to NE Hwy 61, north along NE Hwy 61 to NE Hwy 2, west along NE 2 to the corner formed by Garden–Grant–Sheridan Counties, west along the north border of Garden, Morrill, and Scotts Bluff Counties to the intersection of the Interstate Canal, west to the Wyoming State line.

North-Central Unit: The remainder of the State.

Light Geese

Rainwater Basin Light Goose Area: The area bounded by the junction of NE Hwy 92 and NE Hwy 15, south along NE Hwy 15 to NE Hwy 4, west along NE Hwy 4 to U.S. Hwy 34, west along U.S. Hwy 34 to U.S. Hwy 283, north along U.S. Hwy 283 to U.S. Hwy 30, east along U.S. Hwy 30 to NE Hwy 92, east along NE Hwy 92 to the beginning.

Remainder of State: The remainder of Nebraska.

New Mexico (Central Flyway Portion)

Dark Geese

Middle Rio Grande Valley Unit: Sierra, Socorro, and Valencia Counties.

Remainder: The remainder of the Central Flyway portion of New Mexico.

North Dakota

Missouri River Canada Goose Zone: The area within and bounded by a line starting where ND Hwy 6 crosses the South Dakota border; then north on ND Hwy 6 to I–94; then west on I–94 to ND Hwy 49; then north on ND Hwy 49 to ND Hwy 200; then west on ND Hwy 200; then north on ND Hwy 8 to the Mercer/McLean County line; then east following the county line until it turns south toward Garrison Dam; then east along a line (including Mallard Island) of Lake Sakakawea to U.S. Hwy 83; then south on U.S. Hwy 83 to ND Hwy 200; then east on ND Hwy 200 to ND Hwy 41; then south on ND Hwy 41 to U.S. Hwy 83; then south on U.S. Hwy 83 to I–94; then east on I–94 to U.S. Hwy 83; then south on U.S. Hwy 83 to the South Dakota border; then west along the South Dakota border to ND Hwy 6.

Western North Dakota Canada Goose Zone: Same as the High Plains Unit for ducks, mergansers and coots, excluding the Missouri River Canada Goose Zone.

Rest of State: Remainder of North Dakota.

South Dakota

Early Canada Goose Seasons

Special Early Canada Goose Unit: The Counties of Campbell, Clark, Codington, Day, Deuel, Grant, Hamlin, Marshall, Roberts, Walworth; that portion of Perkins County west of State Highway 75 and south of State Highway 20; that portion of Dewey County north of Bureau of Indian Affairs Road 8, Bureau of Indian Affairs Road 9, and the section of U.S. Highway 212 east of the Bureau of Indian Affairs Road 8 junction; that portion of Potter County east of U.S. Highway 83; that portion of Sully County east of U.S. Highway 83; portions of Hyde, Buffalo, Brule, and Charles Mix Counties north and east of a line beginning at the Hughes–Hyde County line on State Highway 34, east to Lees Boulevard, southeast to State Highway 34, east 7 miles to 350th Avenue, south to Interstate 90 on 350th Avenue, south and east on State Highway 50 to Geddes, east on 285th Street to U.S. Highway 281, and north on U.S. Highway 281 to the Charles Mix–Douglas County boundary; that portion of Bon Homme County north of State Highway 50; those portions of Yankton and Clay Counties north of a line beginning at the junction of State Highway 50 and 306th Street/County Highway 585 in Bon Homme County, east to U.S. Highway 81, then north on U.S. Highway 81 to 303rd Street, then east on 303rd Street to 444th Avenue, then south on 444th Avenue to 305th Street, then east on 305th Street/Bluff Road to State Highway 19, then south to State Highway 50 and east to the Clay/Union County Line; Aurora, Beadle, Brookings, Brown, Butte, Corson, Davison, Douglas, Edmunds, Faulk, Haakon, Hand, Hanson, Harding, Hutchinson, Jackson, Jerauld, Jones, Kingsbury, Lake, McCook, McPherson, Meade, Mellette, Miner, Moody, Oglala Lakota (formerly Shannon), Sanborn, Spink, Todd, Turner, and Ziebach Counties; and those portions of

Minnehaha and Lincoln Counties outside of an area bounded by a line beginning at the junction of the South Dakota–Minnesota State line and Minnehaha County Highway 122 (254th Street) west to its junction with Minnehaha County Highway 149 (464th Avenue), south on Minnehaha County Highway 149 (464th Avenue) to Hartford, then south on Minnehaha County Highway 151 (463rd Avenue) to State Highway 42, east on State Highway 42 to State Highway 17, south on State Highway 17 to its junction with Lincoln County Highway 116 (Klondike Road), and east on Lincoln County Highway 116 (Klondike Road) to the South Dakota–Iowa State line, then north along the South Dakota–Iowa and South Dakota–Minnesota border to the junction of the South Dakota–Minnesota State line and Minnehaha County Highway 122 (254th Street).

Regular Seasons

Unit 1: Same as that for the September Canada goose season.

Unit 2: Remainder of South Dakota.

Unit 3: Bennett County.

Texas

Northeast Goose Zone: That portion of Texas lying east and north of a line beginning at the Texas–Oklahoma border at U.S. 81, then continuing south to Bowie and then southeasterly along U.S. 81 and U.S. 287 to I–35W and I–35 to the juncture with I–10 in San Antonio, then east on I–10 to the Texas–Louisiana border.

Southeast Goose Zone: That portion of Texas lying east and south of a line beginning at the International Toll Bridge at Laredo, then continuing north following I–35 to the juncture with I–10 in San Antonio, then easterly along I–10 to the Texas–Louisiana border.

West Goose Zone: The remainder of the State.

Wyoming (Central Flyway Portion)

Dark Geese

Zone G1: Big Horn, Converse, Hot Springs, Natrona, Park, and Washakie Counties.

Zone G1A: Goshen and Platte Counties.

Zone G2: Campbell, Crook, Johnson, Niobrara, Sheridan, and Weston Counties.

Zone G3: Albany and Laramie Counties; and that portion of Carbon County east of the Continental Divide.

Zone G4: Fremont County excluding those portions south or west of the Continental Divide.

Pacific Flyway

Arizona

Same zones as for ducks.

California

Northeastern Zone: That portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California–Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to main street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California–Nevada State line; north along the California–Nevada State line to the junction of the California–Nevada–Oregon State lines west along the California–Oregon State line to the point of origin.

Klamath Basin Special Management Area: Beginning at the intersection of Highway 161 and Highway 97; east on Highway 161 to Hill Road; south on Hill Road to N Dike Road West Side; east on N Dike Road West Side until the junction of the Lost River; north on N Dike Road West Side until the Volcanic Legacy Scenic Byway; east on Volcanic Legacy Scenic Byway until N Dike Road East Side; south on the N Dike Road East Side; continue east on N Dike Road East Side to Highway 111; south on Highway 111/Great Northern Road to Highway 120/Highway 124; west on Highway 120/Highway 124 to Hill Road; south on Hill Road until Lairds Camp Road; west on Lairds Camp Road until Willow Creek; west and south on Willow Creek to Red Rock Road; west on Red Rock Road until Meiss Lake Road/Old State Highway; north on Meiss Lake Road/Old State Highway to Highway 97; north on Highway 97 to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line from the intersection of Highway 95 with the California–Nevada State line; south on Highway 95 through the junction with Highway 40; south on Highway 95 to Vidal Junction; south through the town of Rice to the San Bernardino–Riverside County line on a road known as ''Aqueduct Road'' also known as Highway 62 in San Bernardino County; southwest on Highway 62 to Desert Center Rice Road; south on Desert Center Rice Road/Highway 177 to the town of Desert Center; east 31 miles on Interstate 10 to its intersection with Wiley Well Road; south on Wiley Well Road to Wiley Well; southeast on Milpitas Wash Road to the Blythe, Brawley, Davis Lake intersections; south on Blythe Ogilby Road also known as County Highway 34 to its intersection with Ogilby Road; south on Ogilby Road to its intersection with Interstate 8; east 7 miles on Interstate 8 to its intersection with the Andrade-Algodones Road/Highway 186; south on Highway 186 to its intersection with the U.S.–Mexico border at Los Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River zone) south and east of a line beginning at the mouth of the Santa Maria River at the Pacific Ocean; east along the Santa Maria River to where it crosses Highway 101–166 near the City of Santa Maria; north on Highway 101–166; east on Highway 166 to the junction with Highway 99; south on Highway 99 to the junction of Interstate 5; south on Interstate 5 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to where it intersects Highway 178 at Walker Pass; east on Highway 178 to the junction of Highway 395 at the town of Inyokern; south on Highway 395 to the junction of Highway 58; east on Highway 58 to the junction of Interstate 15; east on Interstate 15 to the junction with Highway 127; north on Highway 127 to the point of intersection with the California–Nevada State line.

Imperial County Special Management Area: The area bounded by a line beginning at Highway 86 and the Navy Test Base Road; south on Highway 86 to the town of Westmoreland; continue through the town of Westmoreland to Route S26; east on Route S26 to Highway 115; north on Highway 115 to Weist Road; north on Weist Road to Flowing Wells Road; northeast on Flowing Wells Road to the Coachella Canal; northwest on the Coachella Canal to Drop 18; a straight line from Drop 18 to Frink Road; south on Frink Road to Highway 111; north on Highway 111 to Niland Marina Road; southwest on Niland Marina Road to the old Imperial County boat ramp and the water line of the Salton Sea; from the water line of

the Salton Sea, a straight line across the Salton Sea to the Salinity Control Research Facility and the Navy Test Base Road; southwest on the Navy Test Base Road to the point of beginning.

Balance of State Zone: The remainder of California not included in the Northeastern, Colorado River, and Southern Zones.

North Coast Special Management Area: Del Norte and Humboldt Counties.

Sacramento Valley Special Management Area: That area bounded by a line beginning at Willows south on I–5 to Hahn Road; easterly on Hahn Road and the Grimes–Arbuckle Road to Grimes; northerly on CA 45 to the junction with CA 162; northerly on CA 45/162 to Glenn; and westerly on CA 162 to the point of beginning in Willows.

Colorado (Pacific Flyway Portion)

Same zones as for ducks.

Idaho

Canada Geese and Brant

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County east of State Highway 37 and State Highway 39.

Zone 2: Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties.

Zone 3: Ada, Adams, Benewah, Blaine, Boise, Bonner, Boundary, Camas, Canyon, Cassia, Clearwater, Custer, Elmore, Franklin, Gem, Gooding, Idaho, Jerome, Kootenai, Latah, Lemhi, Lewis, Lincoln, Minidoka, Nez Perce, Oneida, Owyhee, Payette, Shoshone, Twin Falls, and Washington Counties; and Power County west of State Highway 37 and State Highway 39.

Zone 4: Bear Lake County; Bingham County within the Blackfoot Reservoir drainage; and Caribou County, except that portion within the Fort Hall Indian Reservation.

Zone 5: Valley County.

White-Fronted Geese

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County east of State Highway 37 and State Highway 39.

Zone 2: Bear Lake, Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties; Bingham County within the Blackfoot Reservoir drainage; and Caribou County except within the Fort Hall Indian Reservation.

Zone 3: Adams, Benewah, Blaine, Bonner, Boundary, Camas, Clearwater, Custer, Franklin, Idaho, Kootenai, Latah, Lemhi, Lewis, Nez Perce, Oneida, and Shoshone Counties; and Power County west of State Highway 37 and State Highway 39.

Zone 4: Ada, Boise, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, and Washington Counties.

Zone 5: Valley County.

Light Geese

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County east of the west bank of the Snake River, west of the McTucker boat ramp access road, and east of the American Falls Reservoir bluff, except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County below the American Falls Reservoir bluff, and within the Fort Hall Indian Reservation.

Zone 2: Franklin and Oneida Counties; Bingham County west of the west bank of the Snake River, east of the McTucker boat ramp access road, and west of the American Falls Reservoir bluff; Power County, except below the American Falls Reservoir bluff and those lands and waters within the Fort Hall Indian Reservation.

Zone 3: Ada, Boise, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, and Washington Counties.

Zone 4: Adams, Benewah, Blaine, Bonner, Boundary, Camas, Clearwater, Custer, Idaho, Kootenai, Latah, Lemhi, Lewis, Nez Perce, and Shoshone Counties.

Zone 5: Bear Lake, Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties; Bingham County within the Blackfoot Reservoir drainage; and Caribou County except within the Fort Hall Indian Reservation.

Zone 6: Valley County.

Nevada

Same zones as for ducks.

New Mexico (Pacific Flyway Portion)

North Zone: The Pacific Flyway portion of New Mexico located north of I–40.

South Zone: The Pacific Flyway portion of New Mexico located south of I–40.

Oregon

Northwest Permit Zone: Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill Counties.

Lower Columbia/N. Willamette Valley Management Area: Those portions of Clatsop, Columbia, Multnomah, and Washington Counties within the Northwest Special Permit Zone.

Tillamook County Management Area: That portion of Tillamook County beginning at the point where Old Woods Road crosses the south shores of Horn Creek, north on Old Woods Road to Sand Lake Road at Woods, north on Sand Lake Road to the intersection with McPhillips Drive, due west (~200 yards) from the intersection to the Pacific coastline, south along the Pacific coastline to a point due west of the western end of Pacific Avenue in Pacific City, east from this point (~250 yards) to Pacific Avenue, east on Pacific Avenue to Brooten Road, south and then east on Brooten Road to Highway 101, north on Highway 101 to Resort Drive, north on Resort Drive to a point due west of the south shores of Horn Creek at its confluence with the Nestucca River, due east (~80 yards) across the Nestucca River to the south shores of Horn Creek, east along the south shores of Horn Creek to the point of beginning.

Southwest Zone: Those portions of Douglas, Coos, and Curry Counties east of Highway 101, and Josephine and Jackson Counties.

South Coast Zone: Those portions of Douglas, Coos, and Curry Counties west of Highway 101.

Eastern Zone: Baker, Crook, Deschutes, Gilliam, Grant, Hood River, Jefferson, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, and Wheeler Counties.

Klamath County Zone: Klamath County.

Harney and Lake County Zone: Harney and Lake Counties.

Malheur County Zone: Malheur County.

Utah

East Box Elder County Zone: Boundary begins at the intersection of the eastern boundary of Public Shooting Grounds Waterfowl Management Area and SR–83 (Promontory Road); east along SR–83 to I–15; south on I–15 to the Perry access road; southwest along this road to the Bear River Bird Refuge boundary; west, north, and then east along the refuge boundary until it intersects the Public Shooting Grounds Waterfowl Management Area boundary; east and north along the Public Shooting

Grounds Waterfowl Management Area boundary to SR–83.

Wasatch Front Zone: Boundary begins at the Weber–Box Elder County line at I–15; east along Weber County line to U.S.–89; south on U.S.–89 to I–84; east and south on I–84 to I–80; south on I–80 to U.S.–189; south and west on U.S.–189 to the Utah County line; southeast and then west along this line to the Tooele County line; north along the Tooele County line to I–80; east on I–80 to Exit 99; north from Exit 99 along a direct line to the southern tip of Promontory Point and Promontory Road; east and north along this road to the causeway separating Bear River Bay from Ogden Bay; east on this causeway to the southwest corner of Great Salt Lake Mineral Corporations (GSLMC) west impoundment; north and east along GSLMC's west impoundment to the northwest corner of the impoundment; north from this point along a direct line to the southern boundary of Bear River Migratory Bird Refuge; east along this southern boundary to the Perry access road; northeast along this road to I–15; south along I–15 to the Weber–Box Elder County line.

Southern Zone: Boundary includes Beaver, Carbon, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Piute, San Juan, Sanpete, Sevier, Washington, and Wayne Counties, and that part of Tooele County south of I–80.

Northern Zone: The remainder of Utah not included in the East Box Elder County, Wasatch Front, and Southern Zones.

Washington

Area 1: Skagit, Island, and Snohomish Counties.

Area 2 Inland (Southwest Permit Zone): Clark, Cowlitz, and Wahkiakum Counties, and that portion of Grays Harbor County east of Highway 101

Area 2 Coastal (Southwest Permit Zone): Pacific County and that portion of Grays Harbor County west of Highway 101.

Area 3: All areas west of the Pacific Crest Trail and west of the Big White Salmon River that are not included in Areas 1, 2A, and 2B.

Area 4: Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla Counties.

Area 5: All areas east of the Pacific Crest Trail and east of the Big White Salmon River that are not included in Area 4.

Brant

Pacific Flyway

California

Northern Zone: Del Norte, Humboldt, and Mendocino Counties.

Balance of State Zone: The remainder of the State not included in the Northern Zone.

Washington

Puget Sound Zone: Clallam, Skagit, and Whatcom Counties.

Coastal Zone: Pacific County.

Swans

Central Flyway

South Dakota: Aurora, Beadle, Brookings, Brown, Brule, Buffalo, Campbell, Clark, Codington, Davison, Day, Deuel, Edmunds, Faulk, Grant, Hamlin, Hand, Hanson, Hughes, Hyde, Jerauld, Kingsbury, Lake, Marshall, McCook, McPherson, Miner, Minnehaha, Moody, Potter, Roberts, Sanborn, Spink, Sully, and Walworth Counties.

Pacific Flyway

Montana (Pacific Flyway Portion)

Open Area: Cascade, Chouteau, Hill, Liberty, and Toole Counties and those portions of Pondera and Teton Counties lying east of U.S. 287–89.

Nevada

Open Area: Churchill, Lyon, and Pershing Counties.

Utah

Open Area: Those portions of Box Elder, Weber, Davis, Salt Lake, and Toole Counties lying west of I–15, north of I–80, and south of a line beginning from the Forest Street exit to the Bear River National Wildlife Refuge boundary; then north and west along the Bear River National Wildlife Refuge boundary to the farthest west boundary of the Refuge; then west along a line to Promontory Road; then north on Promontory Road to the intersection of SR 83; then north on SR 83 to I–84; then north and west on I–84 to State Hwy 30; then west on State Hwy 30 to the Nevada–Utah State line; then south on the Nevada–Utah State line to I–80.

Doves

Alabama

South Zone: Baldwin, Barbour, Coffee, Covington, Dale, Escambia, Geneva, Henry, Houston, and Mobile Counties.

North Zone: Remainder of the State.

Florida

Northwest Zone: The Counties of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Okaloosa, Santa Rosa, Walton, Washington, Leon (except that portion north of U.S. 27 and east of State Road 155), Jefferson (south of U.S. 27, west of State Road 59 and north of U.S. 98), and Wakulla (except that portion south of U.S. 98 and east of the St. Marks River).

South Zone: The remainder of the State.

Louisiana

North Zone: That portion of the State north of a line extending east from the Texas border along State Highway 12 to U.S. Highway 190, east along U.S. 190 to Interstate Highway 12, east along Interstate Highway 12 to Interstate Highway 10, then east along Interstate Highway 10 to the Mississippi border.

South Zone: The remainder of the State.

Mississippi

North Zone: That portion of the State north and west of a line extending west from the Alabama State line along U.S. Highway 84 to its junction with State Highway 35, then south along State Highway 35 to the Louisiana State line.

South Zone: The remainder of Mississippi.

Texas

North Zone: That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to TX 20; west along TX 20 to TX 148; north along TX 148 to I–10 at Fort Hancock; east along I–10 to I–20; northeast along I–20 to I–30 at Fort Worth; northeast along I–30 to the Texas–Arkansas State line.

Central Zone: That portion of the State lying between the North and South Zones.

South Zone: That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to State Loop 1604 west of San Antonio; then south, east, and north along Loop 1604 to I–10 east of San Antonio; then east on I–10 to Orange, Texas.

Special White-winged Dove Area in the South Zone: Same as the South Zone.

Band-Tailed Pigeons

California

North Zone: Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity Counties.

South Zone: The remainder of the State not included in the North Zone.

New Mexico

North Zone: North of a line following U.S. 60 from the Arizona State line east to I–25 at Socorro and then south along I–25 from Socorro to the Texas State line.

South Zone: The remainder of the State not included in the North Zone.

Washington

Western Washington: The State of Washington excluding those portions lying east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Woodcock

New Jersey

North Zone: That portion of the State north of NJ 70.

South Zone: The remainder of the State.

Sandhill Cranes

Mississippi Flyway

Alabama

Hunting Zone: That area north of Interstate 20 from the Georgia State line to the interchange with Interstate 65, then east of Interstate 65 to the interchange with Interstate 22, then north of Interstate 22 to the Mississippi State line.

Non-Hunting Zone: Remainder of the State.

Minnesota

Northwest Zone: That portion of the State encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

Tennessee

Southeast Crane Zone: That portion of the State south of Interstate 40 and east of State Highway 56.

Remainder of State: That portion of Tennessee outside of the Southeast Crane Zone.

Central Flyway

Colorado

Open Area: The Central Flyway portion of the State except the San Luis Valley (Alamosa, Conejos, Costilla, Hinsdale, Mineral, Rio Grande, and Saguache Counties east of the Continental Divide) and North Park (Jackson County).

Kansas

Open Area: That portion of the State west of a line beginning at the Oklahoma border, north on I–35 to Wichita, north on I–135 to Salina, and north on U.S. 81 to the Nebraska border.

Montana

Regular Season Open Area: The Central Flyway portion of the State except for that area south and west of Interstate 90, which is closed to sandhill crane hunting.

Special Season Open Area: Carbon County.

New Mexico

Regular-Season Open Area: Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.

Special Season Open Areas

Middle Rio Grande Valley Area: The Central Flyway portion of New Mexico in Socorro and Valencia Counties.

Estancia Valley Area: Those portions of Santa Fe, Torrance, and Bernallilo Counties within an area bounded on the west by New Mexico Highway 55 beginning at Mountainair north to NM 337, north to NM 14, north to I–25; on the north by I–25 east to U.S. 285; on the east by U.S. 285 south to U.S. 60; and on the south by U.S. 60 from U.S. 285 west to NM 55 in Mountainair.

Southwest Zone: Area bounded on the south by the New Mexico–Mexico border; on the west by the New Mexico–Arizona border north to Interstate 10; on the north by Interstate 10 east to U.S. 180, north to NM 26, east to NM 27, north to NM 152, and east to Interstate 25; on the east by Interstate 25 south to Interstate 10, west to the Luna County line, and south to the New Mexico–Mexico border.

North Dakota

Area 1: That portion of the State west of U.S. 281.

Area 2: That portion of the State east of U.S. 281.

Oklahoma

Open Area: That portion of the State west of I–35.

South Dakota

Open Area: That portion of the State lying west of a line beginning at the South Dakota-North Dakota border and State Highway 25, south on State Highway 25 to its junction with State Highway 34, east on State Highway 34 to its junction with U.S. Highway 81, then south on U.S. Highway 81 to the South Dakota-Nebraska border.

Texas

Zone A: That portion of Texas lying west of a line beginning at the international toll bridge at Laredo, then northeast along U.S. Highway 81 to its junction with Interstate Highway 35 in Laredo, then north along Interstate Highway 35 to its junction with Interstate Highway 10 in San Antonio, then northwest along Interstate Highway 10 to its junction with U.S. Highway 83 at Junction, then north along U.S. Highway 83 to its junction with U.S. Highway 62, 16 miles north of Childress, then east along U.S. Highway 62 to the Texas–Oklahoma State line.

Zone B: That portion of Texas lying within boundaries beginning at the junction of U.S. Highway 81 and the Texas–Oklahoma State line, then southeast along U.S. Highway 81 to its junction with U.S. Highway 287 in Montague County, then southeast along U.S. Highway 287 to its junction with Interstate Highway 35W in Fort Worth, then southwest along Interstate Highway 35 to its junction with Interstate Highway 10 in San Antonio, then northwest along Interstate Highway 10 to its junction with U.S. Highway 83 in the town of Junction, then north along U.S. Highway 83 to its junction with U.S. Highway 62, 16 miles north of Childress, then east along U.S. Highway 62 to the Texas–Oklahoma State line, then south along the Texas–Oklahoma State line to the south bank of the Red River, then eastward along the vegetation line on the south bank of the Red River to U.S. Highway 81.

Zone C: The remainder of the State, except for the closed areas.

Closed areas:

A. That portion of the State lying east and north of a line beginning at the junction of U.S. Highway 81 and the Texas–Oklahoma State line, then southeast along U.S. Highway 81 to its junction with U.S. Highway 287 in Montague County, then southeast along U.S. Highway 287 to its junction with I–35W in Fort Worth, then southwest along I–35 to its junction with U.S. Highway 290 East in Austin, then east along U.S. Highway 290 to its junction with Interstate Loop 610 in Harris County, then south and east along Interstate Loop 610 to its junction with Interstate Highway 45 in Houston, then south on Interstate Highway 45 to State Highway 342, then to the shore of the Gulf of Mexico, and then north and east along the shore of the Gulf of Mexico to the Texas–Louisiana State line.

B. That portion of the State lying within the boundaries of a line beginning at the Kleberg–Nueces County line and the shore of the Gulf of Mexico, then west along the County line to Park Road 22 in Nueces County, then north and west along Park Road 22 to its junction with State Highway 358 in Corpus Christi, then west and north along State Highway 358 to its junction with State Highway 286, then north along State Highway 286 to its junction with Interstate Highway 37, then east along Interstate Highway 37 to its junction with U.S. Highway 181, then north and west along U.S. Highway 181 to its junction with U.S. Highway 77 in Sinton, then north and east along U.S. Highway 77 to its junction with U.S. Highway 87 in Victoria, then south and east along U.S. Highway 87 to its junction with State Highway 35 at Port Lavaca, then north and east along State Highway 35 to the south end of the Lavaca Bay Causeway, then south and east along the shore of Lavaca Bay to its junction with the Port Lavaca Ship Channel, then south and east along the Lavaca Bay Ship Channel to the Gulf of Mexico, and then south and west along the shore of the Gulf of Mexico to the Kleberg–Nueces County line.

Wyoming

Area 7: Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties.

Area 4: All lands within the Bureau of Reclamation's Riverton and Boysen Unit boundaries; those lands within Boysen State Park south of Cottonwood Creek, west of Boysen Reservoir, and south of U.S. Highway 20-26; and all non-Indian owned fee title lands within the exterior boundaries of the Wind River Reservation, excluding those lands within Hot Springs County.

Area 6: Big Horn, Hot Springs, Park, and Washakie Counties.

Area 8: Johnson, Natrona, and Sheridan Counties.

Pacific Flyway

Arizona

Zone 1: Beginning at the junction of the New Mexico State line and U.S. Hwy 80; south along the State line to the U.S.–Mexico border; west along the border to the San Pedro River; north along the San Pedro River to the junction with Arizona Hwy 77; northerly along Arizona Hwy 77 to the Gila River; northeast along the Gila River to the San Carlos Indian Reservation boundary; south then east and north along the reservation boundary to U.S. Hwy 70; southeast on U.S. Hwy 70 to U.S. Hwy 191; south on U.S. Hwy 191 to the 352 exit on I–10; east on I–10 to Bowie-Apache Pass Road; southerly on the Bowie-Apache Pass Road to Arizona Hwy 186; southeasterly on Arizona Hwy 186 to Arizona Hwy 181; south on Arizona Hwy 181 to the West Turkey Creek-Kuykendall cutoff road; southerly on the Kuykendall cutoff road to Rucker Canyon Road; easterly on Rucker Canyon Road to the Tex Canyon Road; southerly on Tex Canyon Road to U.S. Hwy 80; northeast on U.S. Hwy 80 to the New Mexico State line.

Zone 2: Beginning at I–10 and the New Mexico State line; north along the State line to Arizona Hwy 78; southwest on Arizona Hwy 78 to U.S. Hwy 191; northwest on U.S. Hwy 191 to Clifton; westerly on the Lower Eagle Creek Road (Pump Station Road) to Eagle Creek; northerly along Eagle Creek to the San Carlos Indian Reservation boundary; southerly and west along the reservation boundary to U.S. Hwy 70; southeast on U.S. Hwy 70 to U.S. Hwy 191; south on U.S. Hwy 191 to I–10; easterly on I–10 to the New Mexico State line.

Zone 3: Beginning on I–10 at the New Mexico State line; westerly on I–10 to the Bowie-Apache Pass Road; southerly on the Bowie-Apache Pass Road to AZ Hwy 186; southeast on AZ Hwy 186 to AZ Hwy 181; south on AZ Hwy 181 to the West Turkey Creek-Kuykendall cutoff road; southerly on the Kuykendall cutoff road to Rucker Canyon Road; easterly on the Rucker Canyon Road to Tex Canyon Road; southerly on Tex Canyon Road to U.S. Hwy 80; northeast on U.S. Hwy 80 to the New Mexico State line; north along the State line to I–10.

Idaho

Area 1: All of Bear Lake County and all of Caribou County except that portion lying within the Grays Lake Basin.

Area 2: All of Teton County except that portion lying west of State Highway 33 and south of Packsaddle Road (West 400 North) and north of the North Cedron Road (West 600 South) and east of the west bank of the Teton River.

Area 3: All of Fremont County except the Chester Wetlands Wildlife Management Area.

Area 4: All of Jefferson County.

Area 5: All of Bannock County east of Interstate 15 and south of U.S. Highway 30; and all of Franklin County.

Area 6: That portion of Oneida County within the boundary beginning at the intersection of the Idaho–Utah border and Old Highway 191, then north on Old Highway 191 to 1500 S, then west on 1500 S to Highway 38, then west on Highway 38 to 5400 W, then south on 5400 W to Pocatello Valley Road, then west and south on Pocatello Valley Road to 10000 W, then south on 10000 W to the Idaho–Utah border, then east along the Idaho–Utah border to the beginning point.

Montana

Zone 1: Those portions of Deer Lodge County lying within the following described boundary: Beginning at the intersection of I–90 and Highway 273, then westerly along Highway 273 to the junction of Highway 1, then southeast along said highway to Highway 275 at Opportunity, then east along said highway to East Side County road, then north along said road to Perkins Lane, then west on said lane to I–90, then north on said interstate to the junction of Highway 273, the point of beginning. Except for sections 13 and 24, T5N, R10W; and Warm Springs Pond number 3.

Zone 2: That portion of the Pacific Flyway, located in Powell County lying within the following described boundary: Beginning at the junction of State Routes 141 and 200, then west along Route 200 to its intersection with the Blackfoot River at Russell Gates Fishing Access Site (Powell–Missoula County line), then southeast along said river to its intersection with the Ovando–Helmville Road (County Road 104) at Cedar Meadows Fishing Access Site, then south and east along said road to its junction with State Route 141, then north along said route to its junction with State Route 200, the point of beginning.

Zone 3: Beaverhead, Gallatin, Jefferson, and Madison Counties.

Zone 4: Broadwater County.

Utah

Cache County: Cache County.

East Box Elder County: That portion of Box Elder County beginning on the Utah–Idaho State line at the Box Elder–Cache County line; west on the State line to the Pocatello Valley County Road; south on the Pocatello Valley County Road to I–15; southeast on I–15 to SR–83; south on SR–83 to Lamp Junction; west and south on the Promontory Point County Road to the tip of Promontory Point; south from Promontory Point to the Box Elder–Weber County line; east on the Box Elder–Weber County line to the Box Elder–Cache County line; north on the Box Elder–Cache County line to the Utah–Idaho State line.

Rich County: Rich County.

Uintah County: Uintah County.

Wyoming

Area 1: All of the Bear River and Ham's Fork River drainages in Lincoln County.

Area 2: All of the Salt River drainage in Lincoln County south of the McCoy Creek Road.

Area 3: All lands within the Bureau of Reclamation's Eden Project in Sweetwater County.

Area 5: Uinta County.

All Migratory Game Birds in Alaska

North Zone: State Game Management Units 11–13 and 17–26.

Gulf Coast Zone: State Game Management Units 5–7, 9, 14–16, and 10 (Unimak Island only).

Southeast Zone: State Game Management Units 1–4.

Pribilof and Aleutian Islands Zone: State Game Management Unit 10 (except Unimak Island).

Kodiak Zone: State Game Management Unit 8.

All Migratory Game Birds in the Virgin Islands

Ruth Cay Closure Area: The island of Ruth Cay, just south of St. Croix.

All Migratory Game Birds in Puerto Rico

Municipality of Culebra Closure Area: All of the municipality of Culebra.

Desecheo Island Closure Area: All of Desecheo Island.

Mona Island Closure Area: All of Mona Island.

El Verde Closure Area: Those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for 1 kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public.

Cidra Municipality and adjacent areas: All of Cidra Municipality and portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: Beginning on Highway 172 as it leaves the municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality boundary to the point of the beginning.

[FR Doc. 2019–07527 Filed 4–16–19; 8:45 am]

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