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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 715

RIN 3133–AE91

Supervisory Committee Audits and Verifications

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is amending its regulations governing the responsibilities of a federally insured credit union (FICU) to obtain an annual supervisory committee audit of the credit union. The final rule implements recommendations outlined in the agency's Regulatory Reform Task Force's Regulatory Reform Agenda (Agenda) and will provide additional flexibility to FICUs. Specifically, the Board is: Replacing the Supervisory Committee Guide with a simplified appendix to the part; eliminating two audit types that FICUs seldom use; and eliminating a specific deadline for outside, compensated persons to deliver written audit reports to FICUs.

DATES: The final rule takes effect January 6, 2020.

FOR FURTHER INFORMATION CONTACT: *Technical information:* Alison Clark, Chief Accountant, Office of Examination and Insurance, at the above address or telephone (703) 518–6611; or *Legal information:* Marvin Shaw, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518–6553.

SUPPLEMENTARY INFORMATION:

I. Background and Legal Authority

A. NCUA Regulatory Reform Task Force

In August 2017, the Board published and sought comment on the Regulatory Reform Agenda.[1] The Agenda identifies those regulations the Board intends to amend or repeal because they are outdated, ineffective, or excessively burdensome.[2]

The Agenda addresses the NCUA's regulations on Supervisory Committee Audits. As discussed more fully below, the Agenda recommends removing from § 715.7 of the NCUA's regulations the reference to the ''NCUA's Supervisory Committee Guide'' and amending the requirement related to the timing for delivery of written audit reports issued by outside, compensated persons in § 715.9 of the NCUA's regulations.

B. Federal Credit Union Act Audit Requirements

Sections 115 and 202(a)(6) of the Federal Credit Union Act (FCU Act) set forth provisions addressing auditing and accounting requirements.[3] Section 115 of the FCU Act requires a federal credit union's (FCU's) supervisory committee to make an annual audit and submit a report of that audit to the FCU's board of directors and a summary of that report to the FCU's members at the next annual meeting.[4] Further, the supervisory committee is required to make supplemental reports as it deems necessary.

Section 202(a)(6)(A) of the FCU Act is a general grant of authority to the Board to prescribe audit standards that require an outside, independent audit by a certified public accountant for any fiscal year for which a FICU has not conducted an annual supervisory committee audit, has not received a complete and satisfactory supervisory committee audit, or during which the FICU has experienced persistent or serious record keeping deficiencies.

Section 202(a)(6)(C) of the FCU Act generally requires FICUs having assets of $10 million or more to use accounting principles consistent with generally accepted accounting principles (GAAP) in all reports or statements required to be filed with the Board.[5] The Board, and state credit union supervisors under applicable state law, may require credit unions having less than $10 million in assets to follow GAAP.[6]

Section 202(a)(6)(D) of the FCU Act imposes audit requirements for larger FICUs. Specifically, a FICU having assets of $500 million or more is required to obtain an annual independent audit of its financial statements performed in accordance with generally accepted auditing standards, hereafter referred to as a ''financial statement audit.'' That audit must be performed by an independent certified public accountant or public accountant licensed to do so by an appropriate state or jurisdiction.[7]

Additionally, if an FCU having total assets of less than $500 million but more than $10 million elects to obtain a financial statement audit, the audit must be performed consistent with the accountancy laws of the appropriate state or jurisdiction.[8]

C. The NCUA's Supervisory Committee Audit Regulations

Currently, §§ 715.5 and 715.6 of the NCUA's regulations specify: (1) The minimum type of annual audit a FICU is required to obtain according to its charter type and asset size; (2) the licensing requirements of persons performing certain audits; and (3) the auditing principles that apply to certain audits.[9] These provisions were last updated in July 1999.[10] The July 1999 rulemaking adopted § 715.7 of the NCUA's regulations, which outlines the options for a FICU to comply with the annual audit requirement, if it has elected not to voluntarily obtain a financial statement audit. The options currently permitted include a FICU obtaining: (1) A Balance Sheet Audit; (2) a Report on Examination of Internal Controls over Call Reporting; or (3) an Audit per the Supervisory Committee Guide. The first two options are analogous to options that the Federal Financial Institutions Examination Council adopted in 1999 for other federally insured financial institutions. Regarding the third option, the NCUA amended the Supervisory Committee Guide in 1999 to detail the minimum scope and procedures for engaging

[1] 82 FR 39702 (Aug. 22, 2017).

[2] This is consistent with the spirit of President Trump's regulatory reform agenda and Executive Order 13777. Although the NCUA, as an independent agency, is not required to comply with Executive Order 13777, the Board has chosen to comply with it in spirit and has reviewed all of the NCUA's regulations to that end.

[3] 12 U.S.C. 1761d; 12 U.S.C. 1782.

[4] 12 U.S.C. 1761d.

[5] 12 U.S.C. 1782(a)(6)(C). In lieu of GAAP, the NCUA Board ''may prescribe an accounting principle . . . that is no less stringent than [GAAP].''

[6] *Id.*

[7] 12 U.S.C. 1782(a)(6)(D)(i).

[8] 12 U.S.C. 1782(a)(6)(D)(ii).

[9] 12 CFR part 715.

[10] 64 FR 41035 (July 29, 1999).

outside, compensated professionals in the audit process and to clearly distinguish a Supervisory Committee Guide audit from a financial statement audit. The Supervisory Committee Guide is not included in the NCUA's regulations and instead is available on the agency's website.

II. Proposed Amendments

In February 2019 (84 FR 5957), the Board issued a notice of proposed rulemaking (proposal) amending part 715 to: (1) Eliminate the Report on Examination of Internal Controls over Call Reporting option in § 715.7(b); (2) remove reference to the NCUA's Supervisory Committee Guide in § 715.7(c) and replace it with minimum requirements set forth in a new appendix A to part 715; (3) eliminate the Balance Sheet Audit option in § 715.7(a); and (4) amend § 715.9(c)(6) applicable to engagement letters with outside auditors to eliminate a specific 120-day timing requirement.

The proposal also sought comments on whether to include additional topics in the new proposed appendix A. Specifically, under the proposed appendix A, the supervisory committee, internal auditor, or other qualified person would be required to perform and document the following areas of review:

- Test and confirm material asset and liability accounts, including, at a minimum, loans, cash, investments, shares and borrowings;
- test material equity, income and expense accounts;
- review key internal controls, including, at a minimum, bank reconciliation procedures, cash controls, dormant account controls, wire and ACH transfer controls, loan approval and disbursement procedures, and controls over insider [11] accounts;
- test the mathematical accuracy of the allowance for loan and lease loss accounts and ensure the methodology is properly applied; and
- test loan delinquency and charge-offs.

As reflected in the text of the proposed appendix A, the supervisory committee or other person conducting the audit would be expected to determine whether to supplement the minimum procedures in light of a particular FICU's circumstances.

In the proposal, the Board noted that in selecting these areas of review for inclusion in appendix A, NCUA staff borrowed substantially from the Supervisory Committee Guide, reviewed and adopted procedures established by the American Institute of Certified Public Accountants, and consulted with accounting professionals. The goal of the proposal was to make the requirements more understandable to FICUs, rather than change the areas of review the Board considers important. Nevertheless, the Board requested comment on whether other areas of review should be included in appendix A, and listed the following examples: Loans to insiders, pay and benefits to employees and board members, regulatory compliance, and compliance with the Bank Secrecy Act.

In the proposal, the Board noted its plan to decommission the outdated Supervisory Committee Guide, stating that the NCUA would issue reference materials on how to conduct procedures that would meet the minimum requirements of appendix A. This reference material could be used by supervisory committees and the third parties hired to develop agreed upon procedures. Alternatively, supervisory committees and hired third parties could elect to incorporate other agreed upon procedures, so long as the testing meets the minimum requirements.

III. Comments

The Board received 22 comments from credit unions, credit union trade associations, credit union leagues, an association of state regulators, and accountants and accounting firms. Commenters generally supported the proposed rule and the Board's objectives. The consensus was that the proposal would provide FICUs with assets less than $500 million with additional flexibility, reduce compliance burdens, and simplify the Supervisory Committee Audit, while still providing useful information about the financial health and stability of FICUs. Nevertheless, some commenters objected to specific provisions or proposals, while others provided additional suggestions that they believed would improve the proposal and avoid adversely affecting small FICUs. Specifically, a few commenters cautioned that some provisions might increase cost and burden for smaller FICUs and thus run counter to the intent of the proposal. Substantive comments supporting or opposing each specific proposal and advocating alternatives or modifications are discussed below. As discussed in detail below, the Board is adopting the proposal with a few minor modifications.

IV. Final Rule

As detailed below, in this final rule, the Board is amending part 715, *Supervisory Committee Audits and Verifications,* by adopting the proposal with a few minor modifications. The final rule updates outdated provisions and provides added flexibility to FICUs with assets less than $500 million while continuing to ensure appropriate financial oversight. The final rule includes the following modifications to part 715: (1) Eliminating the Report on Examination of Internal Controls Over Call Reporting in § 715.7(b); (2) removing the Supervisory Committee Guide Audit Alternative to a Financial Statement Audit in § 715.7 and replacing it with an appendix; [12] (3) eliminating the Balance Sheet Audit option in § 715.7(a); and (4) removing the 120-day report delivery deadline in § 715.9(c)(6) from the required terms for audit engagement letters with outside, compensated persons. The Board is also making conforming amendments to part 715 to reflect the replacement of the Supervisory Committee Guide with the appendix.

A. Eliminate Report on Examination of Internal Controls Over Call Reporting in § 715.7(b)

The Board proposed eliminating the option for FICUs with assets less than $500 million to obtain a Report on Examination of Internal Controls Over Call Reporting as one of the alternatives to a financial statement audit. The proposal noted that less than one percent of FICUs use this option to fulfill their audit requirement.

Commenters generally agreed with the proposal because of this option's limited use and lack of review of a FICU's income statement. One commenter favored retaining this option to maintain flexibility for smaller FICUs. As proposed, the Board is eliminating this option because it advances the purpose of eliminating outdated and ineffective regulations. This audit option is seldom used and provides limited insight into a FICU's financial condition.

B. Eliminate the Supervisory Committee Guide Audit Alternative to a Financial Statement Audit in § 715.7 and Replace It With an Appendix

The Board proposed removing reference to the NCUA's Supervisory Committee Guide in § 715.7(c) and replacing it with a new appendix covering minimum supervisory committee audit requirements. The Board described the 350-page Supervisory Committee Guide as

[11] ''Insider'' refers to employees and officials of the credit union.

[12] In the final rule, the Board will no longer reference the ''appendix'' as ''appendix A.'' The reason for this modification is to avoid confusion with appendix A of the Supervisory Committee Guide.

outdated. In lieu of this option, the Board proposed adding an appendix to part 715 to set forth minimum areas of review in a clear, concise manner.

Comments on this part of the proposal addressed two areas: (1) Replacing the Supervisory Committee Guide with the appendix generally; and (2) the specific areas of review set forth in the appendix. The Board discusses these areas separately, below.

i. General Comments on Replacing the Supervisory Committee Guide

Although a few commenters supported retaining the Supervisory Committee Guide, most supported replacing it with the appendix. The commenters supporting the change stated that it would clarify and simplify audits for FICUs with assets less than $500 million, increase flexibility, save time and resources, and replace the outdated Supervisory Committee Guide, among other advantages. These commenters also stated that the appendix would increase flexibility and allow FICUs to focus on major risk areas.

The few commenters that opposed adopting the appendix opined that it would create additional costs and unintended consequences, such as increased audit work and associated fees for FICUs that hire outside auditors. These commenters stated that costs would increase significantly, but they did not attempt to quantify the claimed increase in costs. One commenter made several suggested edits to the appendix to alleviate the negative economic impact that the commenter asserted the appendix would cause.

After reviewing and analyzing the comments, the Board has determined that it is appropriate to remove the Supervisory Committee Guide alternative to a financial statement audit in § 715.7 and replace it with an appendix. As stated in the proposal, the Board finds the Supervisory Committee Guide outdated and that the minimum areas of review should be incorporated into the regulation. The NCUA will replace the Supervisory Committee Guide with reference materials on audit procedures to aid in performing the areas of review in the appendix. Replacing the Supervisory Committee Guide with new reference materials on audit procedures will provide an up-to-date resource and greater flexibility for FICUs. The Board finds that the appendix will provide specific areas of review while covering an appropriate range of financial matters. Adding prescriptive provisions to the appendix would run counter to the Board's intention to simplify the requirements and afford flexibility to FICUs. In recognition of the concerns that a few commenters raised, the agency will monitor the implementation of the appendix and may issue informal guidance to address questions that arise. In addition, as the Board stated in the proposal, the agency will consult with representatives of the accounting profession and publish reference materials on audit procedures to aid FICUs and others in conducting audits under the appendix. The Board believes that these measures will effectively address any initial questions or concerns that may arise during the transition from the Supervisory Committee Guide to the appendix.

Separately, despite supporting adoption of the appendix, a few commenters stated that it would be worthwhile to retain the Supervisory Committee Guide as a guidance document on the NCUA website for smaller FICUs. These commenters suggested adding a disclaimer to the document to note that its procedures would no longer satisfy part 715.

The Board has determined that it is appropriate to retain the Supervisory Committee Guide for historical reference on the NCUA website, with the appropriate disclaimers. However, because the Supervisory Committee Guide is outdated, FICUs should not rely on the Guide as a means to comply with part 715.

ii. Comments Addressing the Appendix

The appendix sets forth specific areas of review, as discussed above. The appendix also provides that parties conducting audits may need to perform additional procedures based on the circumstances of a particular FICU, and that the supervisory committee must apply its judgment in determining the procedures necessary to meet audit requirements.

The Board requested comments on whether the proposed minimum procedures and topics in the appendix are appropriate, and whether there are any additional topics that should be included. To this end, the Board listed several specific topics that it was considering adding to the appendix.

One commenter expressed concern that the objectives of the supervisory audit would not be met by the proposed appendix. This commenter suggested incorporating several procedures into the appendix that the commenter believed would result in assurance that the balance sheet accounts are fairly stated, including reconciliations, verifications, and a review of board minutes.

The Board has determined that the minimum areas of review set forth in the proposed appendix are appropriate. These areas of review are intended to reflect common industry practices for auditing accounts and controls over financial institution financial statements. Incorporating extensive additional detail into the appendix would run counter to the Board's goal of clarifying and simplifying audit procedures for FICUs with assets less than $500 million. The Board further notes that NCUA is considering recommendations received on the audit procedures for incorporation into the reference materials that the agency will make available after this final rule goes into effect, as the Board stated in the proposal.

As noted above, the Board also requested comments on whether the topics in the appendix are appropriate and whether there are any additional topics that should be included. The Board specifically requested comment on including the following additional topics in the appendix: loans to insiders; pay and benefits to employees and board members; regulatory compliance; and compliance with the Bank Secrecy Act.

Most commenters agreed with the list of topics expressly set forth in the appendix, stating that the proposed areas of review in the appendix sufficiently ensure that a proper audit would be conducted. However, several commenters recommended not including the additional topics on which the Board sought comments. As detailed below, the Board has decided to adopt the text of the appendix as proposed, with the addition of reviewing board minutes and testing for unrecorded liabilities. The Board has decided to not add any other topics.

Several commenters objected to including employee and board compensation as an audit topic in the appendix. They stated generally that this topic does not fit the intent of a supervisory committee audit and instead is within the purview of the board of directors. Some commenters also objected because they perceived no clear safety and soundness basis to include this topic. The Board notes that while it is not an express provision in the appendix, the supervisory committee audit must test employee and board compensation when it is a significant component of a FICU's expenses—as the regulation requires the audit to include a test of ''material equity, income, and expense accounts.'' However, the Board emphasizes that the purpose of the supervisory committee audit is to reconcile the mathematical

computations related to compensation, and whether they are consistent with authorized compensation plans, but not to judge the appropriateness of the level of compensation. Confirming the accuracy of these figures and flagging any irregularities will serve the goal of ensuring safety and soundness.

Several commenters stated that the appendix should not require testing for Bank Secrecy Act and Anti-Money Laundering as part of the audit engagement, noting that it would be redundant of part 748, which requires annual testing in this area.[13] The Board agrees with these commenters and has decided not to include this topic in the appendix.

Also, several commenters stated that the topics should not include ''regulatory compliance.'' They noted that regulatory compliance issues are beyond the scope of a supervisory committee audit, which focuses on financial and accounting issues. The Board agrees with commenters that it would likely be duplicative of other legal and regulatory requirements to incorporate regulatory compliance in the appendix. Accordingly, the Board has decided not to add this topic to the appendix.

In addition, a few commenters recommended adding to the list of topics. The suggested areas included testing for unrecorded and/or unstated liabilities that would not otherwise be subject to testing based on the materiality definition described in the proposal. Another commenter recommended that the appendix include these topics: disaster recovery and business continuity plans, information security, and vendor management.

The Board agrees that the areas of review should include testing for unrecorded liabilities. However, the Board declines to add the other recommended topics because they are not customarily part of a supervisory committee audit and would be covered by separate engagements. Specifically, the Board has determined not to add disaster recovery and business continuity plans, information security, and vendor management.

In sum, the Board is adopting the appendix as proposed, with the addition of reviewing board minutes and testing for unrecorded liabilities.

C. Eliminate the Balance Sheet Audit Option in § 715.7(a)

The proposal sought comments on whether to eliminate the Balance Sheet Audit option for FICUs with assets less than $500 million. This audit does not cover a FICU's income statement.

Several commenters stated that this option provides no benefit because the balance sheet does not reflect the current value of assets. Commenters also noted that the other audit alternatives provide better indicators of a FICU's financial health.

A few commenters favored retaining this option, despite acknowledging its limitations. For example, some commenters suggested that this option may be effective in the limited circumstance when a credit union is transitioning from a supervisory committee audit to a financial statement audit. Another commenter stated that this option provides reasonable assurance that the balance sheet complies with GAAP and is a viable, lower-cost option than a financial statement audit.

The Board has determined that the balance sheet audit does not provide sufficient information to allow a FICU's board of directors to assess the FICU's financial health. Because a supervisory committee audit provides greater insight at reasonable costs, the Board has decided to eliminate the Balance Sheet Audit as a means to comply with part 715.

D. Assistance From Outside, Compensated Person—Timing Requirement

The Board also proposed amending § 715.9(c)(6) to eliminate a prescriptive timing requirement for completion of audits by an outside, compensated person. This section, among other things, addresses engagement letters a FICU may use to hire a compensated auditor. The current regulation requires that an engagement letter specify a target date of delivery of written audit reports ''not to exceed 120 days from the date of calendar or fiscal year-end under audit (period covered).''[14] The Board proposed to eliminate this requirement and replace it with a flexible standard that would require only that the target delivery date allows the FICU to meet its requirement to obtain an audit each calendar year.[15]

Most commenters agreed with this proposed amendment because it provides FICUs with additional flexibility. Further, these commenters believed the amendment enhances a FICU's ability to better negotiate the target date for delivery of written reports. Commenters further stated that the proposal eliminates burden associated with seeking waivers of the deadline from the NCUA. One commenter opposed the proposal, stating the 120-day requirement may ensure uniformity throughout the industry.

The Board has determined that it is appropriate to adopt this change as proposed. The Board believes that this amendment will provide enhanced flexibility and potential cost savings, without any adverse impact to the auditing process. Although audit due dates may now vary across the industry, the regulation will continue to require annual audits, which provides substantial uniformity.

E. Applicability of Part 715

A few commenters addressed how part 715 should apply to FICUs, both in terms of asset size and chartering authority. Because the Board did not propose any changes in these areas, it declines to adopt the commenters' recommendations, as discussed below.

The Board received two comments suggesting a lower asset-size threshold for a financial statement audit. Because the FCU Act establishes this threshold, as discussed above, and this matter is beyond the scope of the proposal, the Board will not adopt this change.

One commenter stated that the NCUA should clarify part 715's applicability to federally insured, state chartered credit unions (FISCUs), observing that not all FISCUs have supervisory committees. The commenter suggested re-organizing part 715 or amending Part 741 to more clearly identify which requirements apply to FISCUs generally, and in particular to those without supervisory committees. Because the Board proposed no changes on this subject, it will not amend part 715 or 741 in this manner in this final rule. However, the Board notes that the definition of ''supervisory committee'' in § 715.2(l) expressly addresses this issue as follows: ''Supervisory committee refers to a supervisory committee as defined by section 111(b) of the Federal Credit Union Act, 12 U.S.C. 1761(b). For some FISCUs, the 'audit committee' designated by state statute or regulation is the equivalent of a supervisory committee.''[16] If state law or regulation does not require FISCUs chartered in the state to have a supervisory committee or an audit committee, then the credit union's board of directors is responsible for the requirements attributed to the supervisory committee in this regulation.

[13] 12 CFR 748.2.

[14] 12 CFR 715.9(c)(6).

[15] 12 CFR 715.4(a).

[16] 12 CFR 715.2(l).

F. Conforming Amendments

As proposed, the Board is amending § 715.9(c)(3), (d), and (e) to replace references to the Supervisory Committee Guide with references to the appendix.

V. Regulatory Procedures

A. Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis of any significant economic impact a regulation may have on a substantial number of small entities (those with less than $100 million in assets).[17] This rule will provide relief to small credit unions by clarifying and simplifying requirements related to supervisory committee audits. Accordingly, NCUA certifies the rule will not have a significant economic impact on a substantial number of small credit unions.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) requires that the Office of Management and Budget (OMB) approve of all collections of information by a Federal agency from the public before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current, valid OMB control number.

The information collection burden previously associated with the internal controls and balance sheet audit options are now collected as a single information collection associated with amended § 715.7. This change will be reflected in an upcoming renewal.

The information collection requirements under the current rule are covered under OMB #3133–0059. This final rule does not contain any additional information collection requirements under the Paperwork Reduction Act.[18]

C. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. The final rule does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has, therefore, determined that this rule does not constitute a policy that has federalism implications for purposes of the executive order.

D. Assessment of Federal Regulations and Policies on Families

NCUA has determined that this rule will not affect family well-being within the meaning of § 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

E. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) (SBREFA) generally provides for congressional review of agency rules.[19] A reporting requirement is triggered in instances where the NCUA issues a final rule as defined by Section 551 of the Administrative Procedure Act.[20] An agency rule, in addition to being subject to congressional oversight, may also be subject to a delayed effective date if the rule is a ''major rule.''[21] The NCUA does not believe this rule is a ''major rule'' within the meaning of the relevant sections of SBREFA. As required by SBREFA, the NCUA submitted this final rule to OMB for it to determine if the final rule is a ''major rule'' for purposes of SBREFA. OMB determined that the final rule is not major. The NCUA also will file appropriate reports with Congress and the Government Accountability Office so this rule may be reviewed.

List of Subjects in 12 CFR Part 715

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on September 19, 2019.

Gerard Poliquin,

Secretary of the Board.

For the reasons discussed above, the National Credit Union Administration Board amends 12 CFR part 715 as follows:

PART 715—SUPERVISORY COMMITTEE AUDITS AND VERIFICATIONS

■ 1. The authority citation for part 715 continues to read as follows:

Authority: 12 U.S.C. 1761(b), 1761d, and 1782(a)(6).

§ 715.2 [Amended]

■ 2. Amend § 715.2 by removing and reserving paragraph (a) and (j).

■ 3. Amend § 715.4 by revising paragraph (b) and the table and footnote 1 following paragraph (c) to read as follows:

§ 715.4 Audit responsibility of the Supervisory Committee.

* * * * *

(b) *Financial statement audit option.* Any federally-insured credit union, whether Federal or State chartered and regardless of asset size, may choose to fulfill its Supervisory Committee audit responsibility by obtaining an annual audit of its financial statements performed in accordance with GAAS by an independent person who is licensed to do so by the State or jurisdiction in which the credit union is principally located. (A ''financial statement audit'' is distinct from a ''supervisory committee audit,'' although a financial statement audit is included among the options for fulfilling the supervisory committee audit requirement in this section. *Compare* § 715.2(c).)

* * * * *

TABLE 1 TO § 715.4

Type of charter	Asset size	Minimum audit required to fulfill supervisory committee audit responsibility [1]	Part 715 section
Federal Charter	$500 Million or more	Financial statement audit per GAAS by independent, State-licensed person.	715.5
	Less than $500 Million but greater than $10 Million.	Either financial statement audit or other supervisory committee audit.	
	$10 Million or less	Supervisory committee audit.	
State Charter	$500 Million or more	Financial statement audit per GAAS by independent, State licensed person.	715.6

[17] 5 U.S.C. 603(a).

[18] 44 U.S.C. 3501.

[19] 5 U.S.C. 801–804.

[20] 5 U.S.C. 551.

[21] 5 U.S.C. 804(2).

TABLE 1 TO § 715.4—Continued

Type of charter	Asset size	Minimum audit required to fulfill supervisory committee audit responsibility [1]	Part 715 section
	Less than $500 Million	Supervisory committee audit unless audit prescribed by State law is more stringent.	

[1] The Supervisory Committee audit responsibility under this part can always be fulfilled by obtaining a financial statement audit. *See* paragraph (b) of this section.

■ 4. Revise § 715.7 to read as follows:

§ 715.7 Supervisory Committee audit alternatives to a financial statement audit.

A credit union which is not required to obtain a financial statement audit may fulfill its supervisory committee responsibility by obtaining an *Other Supervisory Committee Audit.* Such an audit is one that is performed by the supervisory committee, its internal auditor, or any other qualified person (such as a certified public accountant, public accountant, league auditor, credit union auditor consultant, retired financial institutions examiner, etc.) that satisfies the minimum requirements in appendix A of this part. Qualified persons who are not State-licensed cannot provide assurance services under this section.

■ 5. Revise § 715.9(c)(3) and (6), (d), and (e) to read as follows:

§ 715.9 Assistance from outside, compensated person.

* * * * *

(c) * * *

(3) If an Other Supervisory Committee Audit, include an appendix setting forth the procedures to be performed;

* * * * *

(6) Specify a target date of delivery of the written reports, so that such target date will enable the credit union to meet its annual audit requirements in this part;

* * * * *

(d) *Complete scope.* If the engagement is to perform an Other Supervisory Committee Audit intended to fully meet the requirements of § 715.7, the engagement letter shall certify that the audit will address at least the minimum requirements in appendix A of this part.

(e) *Exclusions from scope.* If the engagement is to perform an Other Supervisory Committee Audit which will exclude any of the minimum requirements in appendix A of this part, the engagement letter shall:

(1) Identify the excluded items;

(2) State that, because of the exclusion(s), the resulting audit will not, by itself, fulfill the scope of a supervisory committee audit; and

(3) Caution that the supervisory committee will remain responsible for fulfilling the scope of a supervisory committee audit with respect to the excluded items.

■ 6. Add appendix A to part 715 to read as follows:

Appendix A to Part 715—Supervisory Committee Audit—Minimum Procedures

This appendix presents minimum procedures which a supervisory committee, its internal auditor, or other qualified person must complete when a credit union chooses the Other Supervisory Committee Audit option for completing its annual audit requirements under § 715.7.

This option may not be adequate for all credit unions as it is designed for smaller, less complex credit unions. The supervisory committee, internal auditor, or other qualified person may also need to perform additional procedures to supplement these minimum procedures if the specific circumstances of a particular credit union so dictate. The supervisory committee must apply its judgment in determining the procedures necessary to meet audit requirements in this part. The supervisory committee remains responsible to ensure that a complete set of test procedures is performed. All test procedures will be done using balances and samples for the applicable audit period under review.

Any time the test or confirmation procedures include making a sample or selection, the supervisory committee's report, its internal auditor's report, or other qualified person's report on minimum procedures should describe the method of selection and the number of selected items.

For purposes of this appendix, the following definitions will apply:

• Confirm or confirmation refers to a written verification with a third-party (person or organization) pertaining to an account balance or condition. Examples of confirmation letters are bank/corporate credit union account confirmation, investment account confirmation, borrowing or line of credit confirmation, attorney letter confirmation, and member share/loan account confirmation.

• Materiality refers to a statement, fact or item, which, giving full consideration to the surrounding circumstances as they exist at the time, it is of such a nature that its disclosure, or the method of treating it, would be likely to influence or to make a difference in the judgment and conduct of a reasonable person. Materiality should take into account ending balances as well as the volume of transactions in an account. Typically, balances or transaction volume greater than 5 percent of the credit union's net worth should be considered material for purposes of this appendix.

• Review refers to the examination of Board minutes, policies and procedures, and a review of a *sample* portion of activities, rather than *all* of the activities.

• Test refers to procedures applied to the individual items that compose an account balance or class of transactions. The tests involve confirmation, inspection, or observation procedures to provide evidence about the recorded amount.

The supervisory committee, internal auditor, or other qualified person must perform and document the following minimum procedures:

- Review Board of Director minutes to determine whether there are any material changes to the credit union's activities or condition that are relevant to the areas to be reviewed in the audit
- Test and confirm material asset and liability accounts including, at a minimum:
  - Loans
  - Cash on deposit
  - Investments
  - Shares
  - Borrowings
- Test material equity, income, and expense accounts
- Test for unrecorded liabilities
- Review key internal controls including, at a minimum:
  - Bank reconciliation procedures
  - Cash controls
  - Dormant account controls
  - Wire and ACH transfer controls
  - Loan approval and disbursement procedures
  - Controls over accounts of employees and officials
  - Other real estate owned
  - Foreclosed and repossessed assets
- Test the mathematical accuracy of the allowance for loan and lease loss account and ensure the methodology is properly applied
- Test loan delinquency and charge-offs

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, 522, 526, 529, 556, and 558

[Docket No. FDA–2019–N–0002]

New Animal Drugs; Approval of New Animal Drug Applications; Change of Sponsor's Name and Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendments.

SUMMARY: The Food and Drug Administration (FDA or we) is amending the animal drug regulations to reflect application-related actions for new animal drug applications (NADAs) and abbreviated new animal drug applications (ANADAs) during April, May, and June 2019. FDA is informing the public of the availability of summaries of the basis of approval and of environmental review documents, where applicable. The animal drug regulations are also being amended to make technical amendments to improve the accuracy of the regulations.

DATES: This rule is effective October 7, 2019.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (CVM) (HFV–6), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–5689, *george.haibel@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Approval Actions

FDA is amending the animal drug regulations to reflect approval actions for NADAs and ANADAs during April, May, and June 2019, as listed in table 1. In addition, FDA is informing the public of the availability, where applicable, of documentation of environmental review required under the National Environmental Policy Act (NEPA) and, for actions requiring review of safety or effectiveness data, summaries of the basis of approval (FOI Summaries) under the Freedom of Information Act (FOIA). These public documents may be seen in the office of the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday. Persons with access to the internet may obtain these documents at the CVM FOIA Electronic Reading Room: *https://www.fda.gov/AboutFDA/CentersOffices/OfficeofFoods/CVM/CVMFOIAElectronicReadingRoom/default.htm.* Marketing exclusivity and patent information may be accessed in FDA's publication, Approved Animal Drug Products Online (Green Book) at: *https://www.fda.gov/AnimalVeterinary/Products/ApprovedAnimalDrugProducts/default.htm.*

TABLE 1—ORIGINAL AND SUPPLEMENTAL NADAS AND ANADAS APPROVED DURING APRIL, MAY, AND JUNE 2019

Approval date	File No.	Sponsor	Product name	Species	Effect of the action	Public documents
April 11, 2019	140–989	Syndel USA, 1441 W. Smith Rd., Ferndale, WA 98248.	PARASITE-S (formalin) Aqueous Formaldehyde Solution.	Freshwater-reared finfish.	Supplemental approval for the control of mortality in freshwater-reared finfish due to saprolegniasis associated with fungi in the family Saprolegniaceae.	FOI Summary.
May 6, 2019	141–288	Zoetis Inc., 333 Portage St., Kalamazoo, MI 49007.	EXCENEL RTU EZ (ceftiofur hydrochloride) Sterile Suspension.	Cattle and swine.	Supplemental approval providing for an increase in the maximum injection site volume in swine.	FOI Summary.
May 7, 2019	200–633	Pharmgate LLC, 1800 Sir Tyler Dr., Wilmington, NC 28405.	DERACIN (chlortetracycline) plus DENAGARD (tiamulin hydrogen fumarate) Type C medicated swine feeds.	Swine	Original approval as a generic copy of NADA 141–011.	FOI Summary.
May 16, 2019	200–598	Bimeda Animal Health Ltd., 1B The Herbert Building, The Park, Carrickmines, Dublin, 18, Ireland.	ENROMED 100 (enrofloxacin) Antimicrobial Injectable Solution.	Cattle and swine.	Original approval as a generic copy of NADA 141–068.	FOI Summary.
May 21, 2019	141–512	Elanco US Inc. 2500 Innovation Way, Greenfield, IN 46140.	EXPERIOR (lubabegron), RUMENSIN (monensin), and TYLAN (tylosin phosphate) Type C medicated feeds.	Cattle	Original approval for beef steers and heifers fed in confinement for slaughter during the last 14 to 91 days on feed for reduction of ammonia gas emissions per pound of live weight and hot carcass weight; for reduction of incidence of liver abscesses associated with *Fusobacterium necrophorum* and *Arcanobacterium pyogenes;* and for either improved feed efficiency or prevention and control of coccidiosis due to *Eimeria bovis* and *E. zuernii.*	FOI Summary.
May 21, 2019	141–514	Elanco US Inc. 2500 Innovation Way, Greenfield, IN 46140.	EXPERIOR (lubabegron) and RUMENSIN (monensin) Type C medicated feeds.	Cattle	Original approval for beef steers and heifers fed in confinement for slaughter during the last 14 to 91 days on feed for reduction of ammonia gas emissions per pound of live weight and hot carcass weight; and for either improved feed efficiency or prevention and control of coccidiosis due to *Eimeria bovis* and *E. zuernii.*	FOI Summary.
May 30, 2019	200–573	Bimeda Animal Health Ltd., 1B The Herbert Building, The Park, Carrickmines, Dublin, 18, Ireland.	OXYMED LA (oxytetracycline injection).	Cattle and swine.	Original approval as a generic copy of NADA 113–232.	FOI Summary.

II. Change of Sponsor's Names and Addresses

Medicis Dermatologics, Inc., 8125 North Hayden Rd., Scottsdale, AZ 85258 has informed FDA that it has changed its name and address to Bausch Health US, LLC, 400 Somerset Corporate Blvd., Bridgewater, NJ 08807. Accordingly, we are amending § 510.600(c) to reflect these changes.

III. Technical Amendments

A section describing tolerances of hetacillin residues (21 CFR 556.316) has been added to subpart B of part 556. This section cross-references the sole hetacillin product approved for use in food-producing animals, an intramammary infusion for use in lactating dairy cows (21 CFR 526.1130). This new section codifies FDA's finding at the time of product approval that, because hetacillin is rapidly hydrolyzed to ampicillin, existing ampicillin tolerances provide appropriate tolerances for hetacillin in edible tissues of cattle (38 FR 31172, November 12, 1973). This amendment is being made to make the regulations more comprehensive.

FDA is also revising the regulations to reflect the approved conditions of use of sulfaquinoxaline soluble powder as a veterinary prescription product for oral administration to cattle as a drench. Finally, we are also revising the regulations for use of monensin in medicated goat feed to reflect the approved incorporation level. These actions are being taken to improve the accuracy of the regulations.

IV. Legal Authority

This final rule is issued under section 512(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360b(i)), which requires **Federal Register** publication of ''notice[s] . . . effective as a regulation,'' of the conditions of use of approved new animal drugs. This rule sets forth technical amendments to the regulations to codify recent actions on approved new animal drug applications and corrections to improve the accuracy of the regulations, and as such does not impose any burden on regulated entities.

Although denominated a rule pursuant to the FD&C Act, this document does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a ''rule of particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808. Likewise, this is not a rule subject to Executive Order 12866, which defines a rule as ''an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency.''

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Parts 520, 522, 526, and 529

Animal drugs.

21 CFR Part 556

Animal drugs, Foods.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 510, 520, 522, 526, 529, 556, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. In § 510.600, in the table in paragraph (c)(1), remove the entry for ''Medicis Dermatologics, Inc.'' and add an entry in alphabetic order for ''Bausch Health US, LLC''; and in the table in paragraph (c)(2), revise the entry for ''099207''.

The addition and revision read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * * * *	
Bausch Health US, LLC, 400 Somerset Corporate Blvd., Bridgewater, NJ 08807	099207
* * * * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * * * *	
099207	Bausch Health US, LLC, 400 Somerset Corporate Blvd., Bridgewater, NJ 08807.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 3. The authority citation for part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 520.812 [Amended]

■ 4. In § 520.812, in paragraph (a)(1)(i), remove ''2.7'' and in its place add ''22.7''.

■ 5. In § 520.2325b, revise paragraph (d)(3) to read as follows:

§ 520.2325b Sulfaquinoxaline drench.

* * * * *

(d) * * *

(3) *Limitations.* Not for use in lactating dairy cattle. A withdrawal period has not been established for this product in preruminating calves. Do not use in calves to be processed for veal.

Federal law restricts this drug to use by or on the order of a licensed veterinarian.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 6. The authority citation for part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 7. In § 522.313b, revise paragraphs (a)(2) and (e)(1)(iii) to read as follows:

§ 522.313b Ceftiofur hydrochloride.

(a) * * *

(2) Ceftiofur hydrochloride equivalent to 50 mg ceftiofur equivalents in the inactive vehicles polyoxyethylene sorbitan monooleate (polysorbate 80) in a caprylic/capric triglyceride suspension; or

* * * * *

(e) * * *

(1) * * *

(iii) *Limitations.* For products described in paragraphs (a)(1) and (3) of this section: Treated swine must not be slaughtered for 4 days following the last treatment. For products described in paragraph (a)(2) of this section: Treated swine must not be slaughtered for 6 days following the last treatment when injection site volumes are greater than 5 mL up to the maximum injection site volume of 15 mL. Treated swine must not be slaughtered for 4 days when injection site volumes are less than or equal to 5 mL.

* * * * *

■ 8. In § 522.812, revise paragraphs (b)(1) and (2) to read as follows:

§ 522.812 Enrofloxacin.

* * * * *

(b) * * *

(1) Nos. 000859, 026637, and 055529 for use of product described in paragraph (a)(1) as in paragraph (e)(1); and

(2) Nos. 000859, 055529, and 061133 for use of product described in paragraph (a)(2) as in paragraphs (e)(2) and (3) of this section.

* * * * *

PART 526—INTRAMAMMARY DOSAGE FORM NEW ANIMAL DRUGS

■ 9. The authority citation for part 526 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 10. In § 526.1130, revise the section heading, redesignate paragraph (c) as paragraph (d), and add new paragraph (c).

The revision and addition read as follows:

§ 526.1130 Hetacillin.

* * * * *

(c) *Related tolerances.* See § 556.316 of this chapter.

* * * * *

PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

■ 11. The authority citation for part 529 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 12. In § 529.1030, revise paragraph (b) and add paragraphs (d)(1)(iv) and (d)(2)(iv) to read as follows:

§ 529.1030 Formalin.

* * * * *

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter for uses as in paragraph (d) of this section.

(1) No. 050378 for use as in paragraph (d) of this section.

(2) Nos. 049968 and 067188 for use as in paragraphs (d)(1)(i), (ii), and (iii), (d)(2)(i), (ii), and (iii), and (d)(3) of this section.

(d) * * *

(1) * * *

(iv) *Freshwater-reared finfish.* For the control of mortality due to saprolegniasis associated with fungi in the family Saprolegniaceae.

(2) * * *

(iv) For the control of mortality in freshwater-reared finfish due to saprolegniasis associated with fungi in the family Saprolegniaceae: In tanks and raceways, administer 150 μL/L (ppm) for 60 minutes per day on alternate days for three treatments.

* * * * *

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

■ 13. The authority citation for part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

■ 14. Add § 556.316 to read as follows:

§ 556.316 Hetacillin.

(a) [Reserved]

(b) *Tolerances.* The tolerances for ampicillin (marker residue for hetacillin) are:

(1) *Cattle. Edible tissues:* 0.01 ppm.

(2) [Reserved]

(c) *Related conditions of use.* See § 526.1130 of this chapter.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 15. The authority citation for part 558 continues to read as follows:

Authority: 21 U.S.C. 354, 360b, 360ccc, 360ccc–1, 371.

■ 16. In § 558.4, in paragraph (d), in the ''Category II'' table, revise the row entry for ''Tilmicosin'' to read as follows:

§ 558.4 Requirement of a medicated feed mill license.

* * * * *

(d) * * *

CATEGORY II

Drug	Assay limits percent [1] Type A	Type B maximum (100x)	Assay limits percent [1] Type B/C [2]
*	*	*	*
Tilmicosin	90–110	37.9 g/lb (8.35%)	Swine Type B/C feed: 85–115 Cattle Type B feed: 85–115 Cattle Type C feed: 80–110
*	*	*	*

* * * * *

■ 17. In § 558.330, revise paragraph (d) to read as follows:

§ 558.330 Lubabegron.

* * * * *

(d) *Conditions of use*—(1) It is used in cattle feed as follows:

Lubabegron fumarate in grams/ton	Combination in grams/ton	Indications for use	Limitations	Sponsor
(i) 1.25 to 4.54	.....	Beef steers and heifers fed in confinement for slaughter: For reduction of ammonia gas emissions per pound of live weight and hot carcass weight during the last 14 to 91 days on feed.	Feed continuously as the sole ration to provide 13 to 90 mg lubabegron/head/day during the last 14 to 91 days on feed. A decrease in dry matter intake may be noticed in some animals receiving lubabegron. Not approved for use in breeding animals because safety and effectiveness have not been evaluated in these animals. Do not allow horses or other equines access to feed containing lubabegron.	058198
(ii) 1.25 to 4.54	Monensin, 5 to 40.	Beef steers and heifers fed in confinement for slaughter: For reduction of ammonia gas emissions per pound of live weight and hot carcass weight and for improved feed efficiency during the last 14 to 91 days on feed.	Feed continuously as the sole ration to provide 13 to 90 mg lubabegron/head/day and 50 to 480 mg monensin/head/day during the last 14 to 91 days on feed. No additional improvement in feed efficiency has been shown from feeding monensin at levels greater than 30 g/ton (360 mg monensin/head/day. A decrease in dry matter intake may be noticed in some animals receiving lubabegron. Lubabegron has not been approved for use in breeding animals because safety and effectiveness have not been evaluated in these animals. Do not allow horses or other equines access to feed containing lubabegron and monensin. Ingestion of monensin by horses has been fatal. Monensin medicated cattle and goat feeds are safe for use in cattle and goats only. Consumption by unapproved species may result in toxic reactions. Feeding undiluted or mixing errors resulting in high concentrations of monensin has been fatal to cattle and could be fatal to goats. Must be thoroughly mixed in feeds before use. Do not exceed the levels of monensin recommended in the feeding directions, as reduced average daily gains may result. If feed refusals containing monensin are fed to other groups of cattle, the concentration of monensin in the refusals and amount of refusals fed should be taken into consideration to prevent monensin overdosing. A withdrawal period has not been established for this product for preruminating calves. Do not use in calves to be processed for veal.	058198
(iii) 1.25 to 4.54.	Monensin, 10 to 40.	Beef steers and heifers fed in confinement for slaughter: For reduction of ammonia gas emissions per pound of live weight and hot carcass weight; and for prevention and control of coccidiosis due to *Eimeria bovis* and *E. zuernii* during the last 14 to 91 days on feed.	Feed continuously as the sole ration to provide 13 to 90 mg lubabegron/head/day and 0.14 to 0.42 mg monensin/lb body weight per day, depending upon severity of coccidiosis challenge, during the last 14 to 91 days on feed. A decrease in dry matter intake may be noticed in some animals receiving lubabegron. Lubabegron has not been approved for use in breeding animals because safety and effectiveness have not been evaluated in these animals. Do not allow horses or other equines access to feed containing lubabegron and monensin. Ingestion of monensin by horses has been fatal. Monensin medicated cattle and goat feeds are safe for use in cattle and goats only. Consumption by unapproved species may result in toxic reactions. Feeding undiluted or mixing errors resulting in high concentrations of monensin has been fatal to cattle and could be fatal to goats. Must be thoroughly mixed in feeds before use. Do not exceed the levels of monensin recommended in the feeding directions, as reduced average daily gains may result. If feed refusals containing monensin are fed to other groups of cattle, the concentration of monensin in the refusals and amount of refusals fed should be taken into consideration to prevent monensin overdosing. A withdrawal period has not been established for this product for preruminating calves. Do not use in calves to be processed for veal.	058198

(2) Lubabegron may also be used in combination with:

(i) Tylosin as in § 558.625.

(ii) [Reserved]

■ 18. In § 558.355, in paragraph (f)(6)(i), in the ''Monensin in grams/ton'' column, remove ''5 to 40'' and in its place add ''20''; and redesignate paragraphs (f)(7)(iv) through (xi) as paragraphs (f)(7)(v) through (xii) and add new paragraph (f)(7)(iv).

The addition reads as follows:

§ 558.355 Monensin.

* * * * *

(f) * * *

(7) * * *

(iv) Lubabegron as in § 558.330.

* * * * *

■ 19. In § 558.625, redesignate paragraphs (e)(2)(vii) through (xv) as paragraphs (e)(2)(ix) through (xvii), and add new paragraphs (e)(2)(vii) and (viii).

The additions read as follows:

§ 558.625 Tylosin.

* * * * *

(e) * * *

(2) * * *

Tylosin grams/ton	Combination in grams/ton	Indications for use	Limitations	Sponsor
*	*	*	* * *	*
(vii) 8 to 10	Monensin, 5 to 40 plus lubabegron fumarate, 1.25 to 4.54.	Beef steers and heifers fed in confinement for slaughter: For reduction of ammonia gas emissions per pound of live weight and hot carcass weight; for reduction of incidence of liver abscesses associated with *Fusobacterium necrophorum* and *Arcanobacterium pyogenes,* and for improved feed efficiency during the last 14 to 91 days on feed.	Feed continuously as sole ration to provide 13 to 90 mg lubabegron/head/day, 50 to 480 mg monensin/head/day, and 60 to 90 mg tylosin/head/day during the last 14 to 91 days on feed. No additional improvement in feed efficiency has been shown from feeding monensin at levels greater than 30 g/ton (360 mg monensin/head/day. A decrease in dry matter intake may be noticed in some animals receiving lubabegron. Lubabegron has not been approved for use in breeding animals because safety and effectiveness have not been evaluated in these animals. Do not allow horses or other equines access to feed containing lubabegron and monensin. Ingestion of monensin by horses has been fatal. Monensin medicated cattle and goat feeds are safe for use in cattle and goats only. Consumption by unapproved species may result in toxic reactions. Feeding undiluted or mixing errors resulting in high concentrations of monensin has been fatal to cattle and could be fatal to goats. Must be thoroughly mixed in feeds before use. Do not exceed the levels of monensin recommended in the feeding directions, as reduced average daily gains may result. If feed refusals containing monensin are fed to other groups of cattle, the concentration of monensin in the refusals and amount of refusals fed should be taken into consideration to prevent monensin overdosing. A withdrawal period has not been established for this product for preruminating calves. Do not use in calves to be processed for veal.	058198
(viii) 8 to 10	Monensin, 10 to 40 plus lubabegron fumarate, 1.25 to 4.54.	Beef steers and heifers fed in confinement for slaughter: For reduction of ammonia gas emissions per pound of live weight and hot carcass weight, for reduction of incidence of liver abscesses associated with *Fusobacterium necrophorum* and *Arcanobacterium pyogenes,* and for prevention and control of coccidiosis due to *Eimeria bovis* and *E. zuernii* during the last 14 to 91 days on feed.	Feed continuously as sole ration to provide 13 to 90 mg lubabegron/head/day, 0.14 to 0.42 mg monensin/lb body weight per day, depending upon severity of coccidiosis challenge, up to 480 mg/head/day, and 60 to 90 mg tylosin/head/day during the last 14 to 91 days on feed. A decrease in dry matter intake may be noticed in some animals receiving lubabegron. Lubabegron has not been approved for use in breeding animals because safety and effectiveness have not been evaluated in these animals. Do not allow horses or other equines access to feed containing lubabegron and monensin. Ingestion of monensin by horses has been fatal. Monensin medicated cattle and goat feeds are safe for use in cattle and goats only. Consumption by unapproved species may result in toxic reactions. Feeding undiluted or mixing errors resulting in high concentrations of monensin has been fatal to cattle and could be fatal to goats. Must be thoroughly mixed in feeds before use. Do not exceed the levels of monensin recommended in the feeding directions, as reduced average daily gains may result. If feed refusals containing monensin are fed to other groups of cattle, the concentration of monensin in the refusals and amount of refusals fed should be taken into consideration to prevent monensin overdosing. A withdrawal period has not been established for this product for preruminating calves. Do not use in calves to be processed for veal.	058198
*	*	*	* * *	*

Dated: September 27, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–21514 Filed 10–4–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2019–0602]

RIN 1625–AA08

Special Local Regulation; Gulf of Mexico, Fort Myers Beach, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation (SLR) for certain waters of the Gulf of Mexico adjacent to Fort Myers Beach, FL. This action is necessary to provide for the safety of race participants, participant vessels, spectators, and the general public on these navigable waters near Fort Myers Beach during the Roar Offshore boat race. This SLR establishes an enforcement area where all persons and vessels, except those persons and vessels participating in the high speed boat race, are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area without obtaining permission from the Captain of the Port St. Petersburg or a designated representative.

DATES: This rule is effective daily from 9:30 a.m. until 5:30 p.m., on October 10, 2019 through October 12, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2019–0602 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 Marine Science Technician First Class Michael Shackleford, Sector St. Petersburg Prevention Department, Coast Guard; telephone (813) 228–2191, email *Michael.d.shackleford@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code
COTP Captain of the Port

II. Background Information and Regulatory History

The Coast Guard is establishing this special local regulation without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. There is insufficient time to publish an NPRM and receive public comment as the Roar Offshore event will occur before the rulemaking process can be reasonably completed. Because of the dangers associated with high speed boat races, this regulation is necessary to provide for the safety of event participants, spectators, and vessels transiting the event area. For those reasons, it would be impracticable to publish an NPRM.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because prompt action is needed to ensure the safety of safety of race participants, participant vessels, spectators, and the general public.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041 (previously 33 U.S.C. 1231). The purpose of the rule is to provide for the safety of life on navigable waters of the United States during the Roar Offshore High Speed Boat Race.

IV. Discussion of the Rule

This rule establishes a special local regulation daily from 9:30 a.m. until 5:30 p.m., on October 10, 2019 through October 12, 2019. The special local regulation would establish an enforcement area where designated representatives may control vessel traffic as determined by the prevailing conditions. The enforcement area would cover all navigable waters in the Gulf of Mexico west of Fort Myers Beach inside a rectangle commencing at latitude 26°26′27″ N, 081°55′55″ W, thence to position 26°25′33″ N, 081°56′34″ W, thence to position 26°26′38″ N, 081°58′40″ W, thence to position 26°27′25″ N, 081°58′8″ W, thence to the original position at 26°26′27″ N, 081°55′55″ W. These coordinates are based on North American Datum 83 (NAD 83).

Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated area by contacting the COTP St. Petersburg by telephone at (727) 824–7506, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the COTP St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP St. Petersburg or a designated representative. The Coast Guard will provide notice of the special local regulation by Local Notice to Mariners, Broadcast Notice to Mariners, and/or on-scene designated representatives.

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 following reasons: (1) The special local regulation would be enforced in a small designated area off of Fort Myers Beach for only eight hours on three consecutive days; (2) although persons and vessels may not enter, transit through, anchor in, or remain within the regulated area without authorization from the COTP St. Petersburg or a designated representative, they may operate in the surrounding area during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the regulated area or anchor in the spectator area, during the enforcement period if authorized by the COTP St. Petersburg or a designated representative; and, (4) the Coast Guard will provide advance

notification of the special local regulation to the local maritime community by Local Notice to Mariners and/or Broadcast Notice to Mariners via VHF radio on channel 16.

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 would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please 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 would 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 would not result in such 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 Management Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a determination 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 issued in conjunction with a regatta or marine parade. It is categorically excluded from further review under paragraph L61 in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1.

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.T07–0602 to read as follows:

§ 100.T07–0602 Gulf of Mexico, Fort Myers Beach, FL.

(a) *Regulated area.* The regulations in this section apply to the following area: All waters of the Gulf of Mexico west of Fort Myers Beach contained within the following points: 26°26′27″ N, 081°55′55″ W, thence to position 26°25′33″ N, longitude 081°56′34″ W, thence to position 26°26′38″ N, 081°58′40″ W, thence to position 26°27′25″ N, 081°58′8″ W, thence back to the original position 26°26′27″ N, 081°55′55″ W. All coordinates are North American Datum 1983.

(b) *Definitions.* As used in this section:

(1) *Captain of the Port (COTP) St. Petersburg* means the Commander, U.S. Coast Guard Sector St. Petersburg or any Coast Guard commissioned, warrant or petty officer who has been authorized by the COTP to act on his behalf.

(2) *Designated Representative* means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the COTP St. Petersburg in the enforcement of the regulated areas.

(3) *Particpant* means all persons and vessels registered with the event sponsor as a participant in the event.

(c) *Regulations.* (1) All non-participant persons and vessels are prohibited from entering transiting through, anchoring in, or remaining within the race area described in

paragraph (a) of this section unless authorized by the COTP St. Petersburg or a designated representative.

(2) Designated representatives may control vessel traffic throughout the enforcement area as determined by the prevailing conditions.

(3) Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated areas by contacting the COTP St. Petersburg by telephone at (727) 824–7506, or a designated representative via VHF radio on channel 16. If authorization is granted, all persons and vessels receiving such authorization must comply with the instructions of the COTP St. Petersburg or a designated representative.

(4) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners and/or Broadcast Notice to Mariners.

(d) *Enforcement period.* This section will be enforced daily from 9:30 a.m. until 5:30 p.m., on October 10, 2019, through October 12, 2019.

Dated: September 27, 2019.

Matthew A. Thompson

Captain, U.S. Coast Guard, Captain of the Port Saint Petersburg.

[FR Doc. 2019–21527 Filed 10–4–19; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2018–0286; FRL–9999–57]

Cyromazine; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of cyromazine in or on multiple commodities which are identified and discussed later in this document. The Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective October 7, 2019. Objections and requests for hearings must be received on or before December 6, 2019, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2018–0286, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

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

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

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Publishing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.* To access the OCSPP test guidelines referenced in this document electronically, please go to *https://www.epa.gov/aboutepa/about-office-chemical-safety-and-pollution-prevention-ocspp* and select ''Test Methods and Guidelines.''

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2018–0286 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before December 6, 2019. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2018–0286, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets/where-send-comments-epa-dockets.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of July 24, 2018 (83 FR 34968) (FRL–9980–31), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 8E8673) by The Interregional Research Project Number 4 (IR–4), Rutgers, The State University of New Jersey, 500 College Road East, Suite 201 W, Princeton, NJ 08540. The petition requested that 40 CFR 180.414 be amended by establishing tolerances for residues of the insecticide cyromazine, *N*-cyclopropyl-1,3,5-triazine-2,4,6-triamine, in or on Brassica, leafy greens, subgroup 4–16B

at 10.0 parts per million (ppm); Celtuce at 7.0 ppm; Chickpea, edible podded at 0.4 ppm; Chickpea, succulent shelled at 0.3 ppm; Dwarf pea, edible podded at 0.4 ppm; Edible podded pea, edible podded at 0.4 ppm; English pea, succulent shelled at 0.3 ppm; Florence fennel at 7.0 ppm; Garden pea, succulent shelled at 0.3 ppm; Grass-pea, edible podded at 0.4 ppm; Green pea, edible podded at 0.4 ppm; Green pea, succulent shelled at 0.3 ppm; Kohlrabi at 10.0 ppm; Leaf petiole subgroup 22B at 7.0 ppm; Leafy green subgroup 4–16A at 7.0 ppm; Lentil, edible podded at 0.4 ppm; Lentil, succulent shelled at 0.3 ppm; Onion, bulb, subgroup 3–07A at 0.2 ppm; Onion, green, subgroup 3–07B at 3.0 ppm; Pepper/eggplant 8–10B at 1.0 ppm; Pigeon pea, edible podded at 0.4 ppm; Pigeon pea, succulent shelled at 0.3 ppm; Snap pea, edible podded at 0.4 ppm; Snow pea, edible podded at 0.4 ppm; Sugar snap pea, edible podded at 0.4 ppm; Tomato subgroup 8–10A at 1.0 ppm; Vegetable, brassica, head and stem, group 5–16, except broccoli at 10.0 ppm; and Vegetable, tuberous and corm, subgroup 1C at 0.8 ppm.

Upon establishing those tolerances, the petition also proposed to remove existing tolerances for residues of cyromazine (*N*-cyclopropyl-1,3,5-triazine-2,4,6-triamine) in or on cabbage, abyssinian at 10.0 ppm; cabbage, seakale at 10.0 ppm; garlic at 0.2 ppm; garlic, great-headed, bulb at 0.2 ppm; Hanover salad, leaves at 10.0 ppm; leek at 3.0 ppm; onion, bulb at 0.2 ppm; onion, green at 3.0 ppm; onion, potato at 3.0 ppm; onion, tree at 3.0 ppm; onion, welsh at 3.0 ppm; pepper at 1.0 ppm; potato at 0.8 ppm; rakkyo, bulb at 0.2 ppm; shallot, bulb at 0.2 ppm; shallot, fresh leaves at 3.0 ppm; tomato at 0.5 ppm; turnip, greens at 10.0 ppm; vegetable, brassica, leafy, group 5, except broccoli at 10.0; vegetable, leafy, except brassica, group 4 at 7.0 ppm. That document referenced a summary of the petition prepared by Makhteshim Agan of North American, Inc., (ADAMA) and Syngenta Crop Protection, LLC, the registrants, which is available in the docket, *http://www.regulations.gov.* Three comments were received on the notice of filing. EPA's response to these comments is discussed in Unit IV.C.

Based upon review of the data supporting the petition, EPA has corrected the terminology for several commodities and is establishing tolerances at levels other than petitioned for on some of the commodities. The reasons for these changes are explained in Unit IV.D.

III. Aggregate Risk Assessment and Determination of Safety

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

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

A. Toxicological Profile

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

No specific toxicity was associated with cyromazine, with lowest observed adverse effects levels (LOAELs) occurring at relatively high doses. Decreases in body weight and food consumption are the common features of cyromazine toxicity following subchronic or chronic oral exposures as seen in dogs, rats, mice, and rabbits. Other effects reported were organ weight (relative) changes and changes to some hematological parameters that were biologically insignificant and non-adverse. No dermal or systemic toxicity was seen at the highest dose tested (greater than 2,000 mg/kg/day) in two 21-day dermal toxicity studies in rabbits. In a 28-day inhalation study in rats, cyromazine produced clinical signs of toxicity (hunched posture, piloerection, and reduced spontaneous activity) consistent with dyspnea at all concentrations tested. An acute neurotoxicity study demonstrated reduced motor activity as the main effect with no treatment-related effects on mortality, brain weight, or gross and histologic pathology or neuropathology up to the limit dose tested.

There is no evidence of developmental toxicity following *in utero* exposures or that offspring are more susceptible following postnatal exposure. In the 2-generation reproduction study in rats no reproductive effects were observed. The available oral perinatal, prenatal and postnatal data demonstrated no indication of increased sensitivity of rats or rabbits to *in utero* exposure to cyromazine. No quantitative or qualitative susceptibility was observed in any study. In the prenatal developmental rat toxicity study, the NOAEL (300 mg/kg/day) for developmental effects (increased incidence of minor skeletal variations) was higher than the maternal NOAEL (100 mg/kg/day). In the developmental toxicity study in rabbits, no evidence of developmental toxicity was noted since the NOAEL was the highest dose tested (60 mg/kg/day). In the 2-generation reproduction rat study, no reproductive effects were observed up to the highest dose tested (150 mg/kg/day).

Cyromazine was not carcinogenic in mice or rats following long-term dietary administration and was classified ''Group E—Evidence of Noncarcinogenicity for Humans.'' The available mutagenicity data suggest that cyromazine does not have genotoxic activity. Cyromazine is categorized as Toxicity Category III for acute oral, dermal and inhalation toxicity. Cyromazine is neither an eye irritant nor a dermal sensitizer; however, it is mild skin irritant.

Specific information on the studies received and the nature of the adverse effects caused by cyromazine as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document ''Cyromazine: Human health Risk Assessment for Proposed New Foliar Uses on Edible Podded pea and Succulent Shelled Pea Commodities, Crop Group Conversion on Leafy green subgroup 4–16A, Leaf petiole subgroup 22B, Celtuce, and Florence fennel; Vegetable, brassica, head and stem,

group 5–16, except broccoli; Brassica, leafy greens, subgroup 4–16B; Kohlrabi; Hanover salad, leaves; Turnip, greens; Cabbage, Abyssinian; and Cabbage, seakale; Tomato subgroup 8–10A; Pepper/eggplant subgroup 8–10B; and Expansion of Vegetable, tuberous ad corm, subgroup 1C, Onion, bulb, subgroup 3–07A; and Onion, green, subgroup 3–07B'' at page number 11 and ''Cyromazine: Human Health Risk Assessment for Registration Review'' at pages 51–53 in docket ID number EPA–HQ–OPP–2018–0286.

B. Toxicological Points of Departure/ Levels of Concern

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

A summary of the toxicological endpoints for cyromazine used for human risk assessment is shown in Table 1 of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR CYROMAZINE FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (Females 13+ years of age).	No developmental effects attributable to a single dose were seen following *in utero* exposures to rats and rabbits.		
Acute dietary (All populations)	LOAEL = 250 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 3x	Acute RfD = 2.5 mg/kg/day. aPAD = 0.83 mg/kg/day	Acute Neurotoxicity Study in rats. LOAEL = 250 mg/kg/day based on decreased motor activity (mean cumulative ambulatory LMA counts, 44%) in males at the time of peak effect on Day 0, and decreased food consumption (17%) on Day 1.
Chronic dietary (All populations)	NOAEL = 50 mg/kg/day UF_A = 10x UF_H = 10x FQPA SF = 1x	Chronic RfD = 0.5 mg/kg/day. cPAD = 0.5 mg/kg/day	Two-Generation Reproductive Study in rats. LOAEL = 150 mg/kg/day for decreased body weights (27%) that were associated with decreased food efficiency. Co-critical with: Chronic Carcinogenicity Study in the rat. LOAEL = 150 mg/kg/day based on decreased body weight (20% males, 29% females) associated with lower food consumption (10–15%) compared to controls.
Cancer (All routes)	Group E—No evidence for carcinogenicity in humans.		

Point of Departure (POD) = A data point or an estimated point that is derived from observed dose-response data and used to mark the beginning of extrapolation to determine risk associated with lower environmentally relevant human exposures. FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligram/kilogram/day. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to cyromazine, EPA considered exposure under the petitioned-for tolerances as well as all existing cyromazine tolerances in 40 CFR 180.414. EPA assessed dietary exposures from cyromazine in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for cyromazine. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA's) 2003–2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/ WWEIA). As to residue levels in food, EPA used tolerance-level residues and 100% crop treated assumptions.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 2003–2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, EPA used tolerance-level residues and 100% crop treated assumptions.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that cyromazine does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for cyromazine. Tolerance level residues and 100% CT were assumed for all food commodities.

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

and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide.

Based on the First Index Reservoir Screening Tool (FIRST) and Pesticide Root Zone Model Ground Water (PRZM GW), the estimated drinking water concentrations (EDWCs) of cyromazine for acute exposures are estimated to be 47.1 parts per billion (ppb) for surface water and 111 ppb for ground water. For chronic exposures for non-cancer assessments, EDWCs are estimated to be 15.8 ppb for surface water and 86 ppb for ground water. Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 111 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration value of 86 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Cyromazine is not registered for any specific use patterns that would result in residential exposure. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/standard-operating-procedures-residential-pesticide.*

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' EPA has determined that the available toxicological data suggests cyromazine does not share a similar toxicological profile, and thus no common mechanism of toxicity, with other pesticides. No further cumulative evaluation is necessary for cyromazine. This analysis can be found at *http://www.regulations.gov* in document ''Chitin Synthesis Inhibitors (Buprofezin and Cyromazine): Screening Analysis of Toxicological Profiles to Consider Whether a Candidate Common Mechanism Group Can Be Established'' in docket ID number EPA–HQ–OPP–2018–0286.

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* Based on the available data, there is no quantitative and qualitative evidence of increased susceptibility observed following *in utero* cyromazine exposure to rats and rabbits or following prenatal/postnatal exposure in the 2-generation reproduction study. The database is considered adequate for selection of study endpoints and determination of a dose/response to characterize the potential prenatal or postnatal toxicity of cyromazine to infants and children. No increase in susceptibility was seen in developmental toxicity studies in rat and rabbit or reproductive toxicity studies in the rat. Toxicity to offspring was observed at dose levels the same or greater than those causing maternal or parental toxicity. Based on the results of developmental and reproductive toxicity studies, there is not a concern or increased qualitative and/or quantitative susceptibility following *in utero* exposure to cyromazine.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X for the chronic dietary exposure assessment and retained at 3X for the acute dietary exposure assessment. That decision is based on the following findings:

i. The toxicity database for cyromazine is complete for assessing the risks to infants and children. However, the study providing the basis for the acute dietary exposure POD lacks a NOAEL, so the Agency is retaining a 3X FQPA SF for extrapolating a NOAEL.

ii. There is no evidence of neurotoxicity in the cyromazine repeated dose studies, which include subchronic or chronic dosing in multiple species. However, in the acute neurotoxicity study conducted in rats, reduced motor activity was seen at all doses tested and additional neurological effects (decreased foot splay in males and increased rearing behavior in females) were observed at the highest dose tested. Because a NOAEL was not established for the acute neurotoxicity effects, an FQPA SF will be retained for the acute risk assessment. In this case, the default FQPA SF of 10X can be reduced to 3X for the following reasons:

(1) the toxicity database is considered complete for cyromazine and no other studies via the oral route showed clinical signs or histopathology indicative of neurotoxicity;

(2) a 3X SF yields an acute PAD of 0.83 mg/kg/day, which is similar to the chronic PAD of 0.5 mg/kg/day. The chronic POD is considered very conservative and is based on 27% decreased body weight seen at the LOAEL of 150 mg/kg/day in absence of any other significant effects. The aPAD is conservative because it is unlikely that decreased motor activity would occur at doses similar to the chronic endpoint. The effects used to derive the chronic POD (decrease in body weight) were observed only after repeated exposure (15 weeks) and there was no indication of decreased activity or other neurological clinical signs in the chronic study; and

(3) motor activity seems to be a very sensitive indicator of acute toxicity of cyromazine. While there are indications of neurotoxicity in the ACN and inhalation studies, the selected endpoints are protective of those effects, therefore there is no concern for developmental neurotoxicity resulting from exposure to cyromazine. Based on the findings in the acute neurotoxicity study and the total weight of evidence, the requirement for the subchronic neurotoxicity study was waived.

iii. There is no evidence that cyromazine results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100% CT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to cyromazine in drinking water. These assessments will not underestimate the exposure and risks posed by cyromazine.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure

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

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to cyromazine will occupy 18% of the aPAD for children 1 to 2 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to cyromazine from food and water will utilize 8.3% of the cPAD for children 1 to 2 years old, the population group receiving the greatest exposure. There are no residential uses for cyromazine that would result in chronic exposure.

3. *Short-term and Intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account short- and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Short- and intermediate-term adverse effects were identified; however, cyromazine is not registered for any use patterns that would result in short- or intermediate-term residential exposure. Short- and intermediate-term risk is assessed based on short- and intermediate-term residential exposure plus chronic dietary exposure. Because there is no short- or intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess short- or intermediate-term risk), no further assessment of short- or intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating short- and intermediate-term risk for cyromazine.

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, cyromazine is not expected to pose a cancer risk to humans.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology is available to enforce the tolerance expression. Adequate methods are available in Pesticide Analytical Manual (PAM), Vol. II for enforcement of the established tolerances for cyromazine in/on plant commodities. The working method ''Determination of Cyromazine in Bean (snap)'' Revision O, was derived from Ciba-Geigy Analytical Method No. AG0621, ''Analytical Method for the Determination of Cyromazine and its Metabolite Melamine residues in Crops by Gas Chromatography with a Nitrogen/Phosphorous detector in the Nitrogen Specific Mode. (January 12, 1995).'' Minor modifications were made to improve the performance of the method. The limit of quantitation for cyromazine is 0.05 ppm in most plant commodities. Adequate methods are available in PAM, Vol. II for enforcement of the established tolerances for cyromazine in/on meat, milk, poultry, and eggs. Cyromazine, per se, was recovered when analyzed through Protocol III (present Protocol D). The Agency concluded that the data were acceptable and no additional cyromazine multiresidue method (MRM) recovery data were required.

B. International Residue Limits

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

There are Codex MRLs established for residues of cyromazine in/on several commodities. The U.S. tolerances being established for Onion, green, subgroup 3–07B and Tomato subgroup 8–10A are harmonized with Codex. The U.S. is not able to harmonize with Codex for Onion, bulb, subgroup 3–07A; Leafy green subgroup 4–16A; Leaf petiole subgroup 22B; Brassica, leafy greens, subgroup 4–16B; and pepper/eggplant subgroup 8–10B because differences in use patterns and residues in submitted field trials support higher U.S. tolerances; harmonization would cause tolerance exceedances and violative residues, despite legal use of cyromazine pursuant to U.S. labels. There are no Codex MRLs for the other commodities in this action.

C. Response to Comments

EPA received three comments to the Notice of Filing. Two comments expressed concerns about wildfires, health and habitats. These comments did not raise any issues related to the Agency's safety determination of cyromazine tolerances. The receipt of these comments is acknowledged however, these comments are not relevant to this action. Another commenter stated the following, ''In rule making, please use the following standard: The amounts of residues found in food must be safe for consumers and must be as low as possible.'' When new or amended tolerances are requested for residues of a pesticide in food or feed, the Agency, as is required by section 408 of the FFDCA, estimates the risk of the potential exposure to these residues. The Agency has concluded after this assessment, that there is a reasonable certainty that no harm will result from aggregate human exposure to cyromazine and that, accordingly, the cyromazine tolerances on these commodities are safe. The commenter has provided no information suggesting that the levels approved are not safe.

D. Revisions to Petitioned-For Tolerances

EPA made two minor wording changes to the existing tolerance expression by deleting the phrases ''the insecticide'' and ''. . . , in or on the commodity'' at the end of the tolerance expression for consistency with Agency policy. For harmonization purposes, the Agency is establishing different tolerances for the following commodities than what was petitioned for: Leafy green subgroup 4–l6A, Brassica, leafy greens, subgroup 4–16B, Celtuce, Fennel, Florence, fresh leaves and stalk, Kohlrabi, Leaf petiole vegetable subgroup 22B, Onion, bulb, subgroup 3–07A, Pepper/eggplant subgroup 8–10B, and Vegetable, brassica, head and stem, group 5–16, except broccoli. Additionally, the Agency revised the commodity terminology to use the following correct commodity definitions: Leafy greens subgroup 4–16A, Leaf petiole vegetable subgroup 22B, Fennel, Florence, fresh

leaves and stalk, and Pepper/eggplant subgroup 8–10B. Finally, EPA is establishing several tolerances that differ from the petitioned-for tolerance levels to conform to the Agency's rounding classes.

E. International Trade Considerations

In this rule, EPA is establishing lower tolerances for cyromazine residues in or on onion, potato than the current tolerance. The current tolerance for onion, potato is 3.0 ppm, but onion, potato is a commodity in the onion, bulb, subgroup 3–07A, for which EPA is establishing a new tolerance in this rulemaking at 0.3 ppm. As a result, EPA intends for the allowable residues onion, potato to be reduced. As discussed in EPA's crop grouping rulemaking, EPA has determined that onion, potato is similar to other bulb onions and appropriately categorized in subgroup 3–07A. *See* 72 FR 69150 (Dec. 7, 2007). Based on residue data supporting the 0.3 ppm tolerance for subgroup 3–07A and the similarity of onion, potato to other bulb onions, EPA concludes that it is appropriate to reduce the tolerance on onion, potato as well.

In accordance with the World Trade Organization's (WTO) Sanitary and Phytosanitary Measures (SPS) Agreement, EPA intends to notify the WTO of the changes to these tolerances in order to satisfy its obligations under the Agreement. In addition, the SPS Agreement requires that Members provide a ''reasonable interval'' between the publication of a regulation subject to the Agreement and its entry into force to allow time for producers in exporting Member countries to adapt to the new requirement. Accordingly, EPA is establishing an expiration date for the existing tolerance to allow this tolerance to remain in effect for a period of six months after the effective date of this final rule. After the six-month period expires, this tolerance will be reduced or revoked, as indicated in the regulatory text, and allowable residues on onion, potato must conform to the tolerance for subgroup 3–07A.

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

V. Conclusion

Therefore, tolerances are established for residues of the insecticide cyromazine, *N*-cyclopropyl-1,3,5-triazine-2,4,6-triamine, in or on Brassica, leafy greens, subgroup 4–16B at 35 ppm; Celtuce at 10 ppm; Chickpea, edible podded at 0.4 ppm; Chickpea, succulent shelled at 0.3 ppm; Dwarf pea, edible podded at 0.4 ppm; Edible podded pea, edible podded at 0.4 ppm; English pea, succulent shelled at 0.3 ppm; Fennel, Florence, fresh leaves and stalk at 10 ppm; Garden pea, succulent shelled at 0.3 ppm; Grass-pea, edible podded at 0.4 ppm; Green pea, edible podded at 0.4 ppm; Green pea, succulent shelled at 0.3 ppm; Kohlrabi at 35 ppm; Leaf petiole vegetable subgroup 22B at 10 ppm; Leafy greens subgroup 4–16A at 10 ppm; Lentil, edible podded at 0.4 ppm; Lentil, succulent shelled at 0.3 ppm; Onion, bulb, subgroup 3–07A at 0.3 ppm; Onion, green, subgroup 3–07B at 3 ppm; Pepper/eggplant subgroup 8–10B at 3 ppm; Pigeon pea, edible podded at 0.4 ppm; Pigeon pea, succulent shelled at 0.3 ppm; Snap pea, edible podded at 0.4 ppm; Snow pea, edible podded at 0.4 ppm; Sugar snap pea, edible podded at 0.4 ppm; Tomato subgroup 8–10A at 1 ppm; Vegetable, brassica, head and stem, group 5–16, except broccoli at 35 ppm; Vegetable, tuberous and corm, subgroup 1C at 0.8 ppm.

In addition, EPA is removing the following tolerances because they are superseded by the new tolerances being established in this rulemaking: Cabbage, abyssinian at 10.0 ppm; cabbage, seakale at 10.0 ppm, garlic at 0.2 ppm; garlic, great-headed, bulb at 0.2 ppm; Hanover salad, leaves at 10.0 ppm; leek at 3.0 ppm; onion, bulb at 0.2 ppm; onion, green at 3.0 ppm; onion, tree at 3.0 ppm; onion, welsh at 3.0 ppm; pepper at 1.0 ppm; potato at 0.8 ppm; rakkyo, bulb at 0.2 ppm; shallot, bulb at 0.2 ppm; shallot, fresh leaves at 3.0 ppm; tomato at 0.5 ppm; turnip, greens at 10.0 ppm; vegetable, brassica, leafy, group 5, except broccoli at 10.0; vegetable, leafy, except brassica, group 4 at 7.0 ppm. Finally, EPA is setting a six-month expiration date for the current onion, potato tolerance at 3.0 ppm.

VI. Statutory and Executive Order Reviews

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

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

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

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

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will

submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: September 20, 2019.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.414, revise paragraph (a)(1) introductory text and amend the table in paragraph (a)(1) as follows:

■ a. Add alphabetically the entries ''Brassica, leafy greens, subgroup 4–16B'';

■ b. Remove the entries for ''Cabbage, abyssinian''; and ''Cabbage, seakale'';

■ c. Add alphabetically the entries ''Celtuce''; ''Chickpea, edible podded''; ''Chickpea, succulent shelled''; ''Dwarf pea, edible podded''; ''Edible podded pea, edible podded''; ''English pea, succulent shelled''; ''Fennel, Florence, fresh leaves and stalk''; ''Garden pea, succulent shelled'';

■ d. Remove the entries for ''Garlic''; and ''Garlic, great-headed, bulb'';

■ e. Add alphabetically the entries ''Grass-pea, edible podded''; ''Green pea, edible podded''; and ''Green pea, succulent shelled'';

■ f. Remove the entry for ''Hanover salad, leaves'';

■ g. Add alphabetically the entries ''Kohlrabi''; ''Leaf petiole vegetable subgroup 22B''; and ''Leafy greens subgroup 4–16A'';

■ h. Remove the entry for ''Leek'';

■ i. Add alphabetically the entries ''Lentil, edible podded''; and ''Lentil, succulent shelled'';

■ j. Remove the entries for ''Onion, bulb''; and ''Onion, green'';

■ k. Add alphabetically the entries ''Onion, bulb, subgroup 3–07A''; and ''Onion, green, subgroup 3–07B'';

■ l. Revise the entry for ''Onion, potato''; to add a footnote 2;

■ m. Remove the entries for ''Onion, tree''; ''Onion, welsh''; and ''Pepper''; ■ n. Add alphabetically the entries ''Pepper/eggplant subgroup 8–10B''; ''Pigeon pea, edible podded''; and ''Pigeon pea, succulent shelled'';

■ o. Remove the entries for ''Potato''; ''Rakkyo, bulb''; ''Shallot, bulb''; and ''Shallot, fresh leaves'';

■ p. Add alphabetically the entries ''Snap pea, edible podded''; ''Snow pea, edible podded''; and ''Sugar snap pea, edible podded'';

■ q. Remove the entry for ''Tomato'';

■ r. Add alphabetically the entry ''Tomato subgroup 8–10A'';

■ s. Remove the entry for ''Turnip, greens'';

■ t. Add alphabetically the entry ''Vegetable, brassica, head and stem, group 5–16, except broccoli'';

■ u. Remove the entries for ''Vegetable, brassica, leafy, group 5, except broccoli''; and ''Vegetable, leafy, except brassica, group 4''; and

■ v. Add alphabetically the entry ''Vegetable, tuberous and corm, subgroup 1C''.

The revisions and additions read as follows:

§ 180.414 Cyromazine; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of cyromazine, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only cyromazine, *N*-cyclopropyl-1,3,5-triazine-2,4,6-triamine.

Commodity	Parts per million
* * * * *	
Brassica, leafy greens, subgroup 4–16B	35
* * * * *	
Celtuce	10
Chickpea, edible podded	0.4
Chickpea, succulent shelled	0.3
Dwarf pea, edible podded	0.4
Edible podded pea, edible podded	0.4
* * * * *	
English pea, succulent shelled	0.3
Fennel, Florence, fresh leaves and stalk	10
Garden pea, succulent shelled	0.3
* * * * *	
Grass-pea, edible podded	0.4
Green pea, edible podded	0.4
Green pea, succulent shelled	0.3
* * * * *	
Kohlrabi	35
Leaf petiole vegetable subgroup 22B	10
Leafy greens subgroup 4–16A	10
Lentil, edible podded	0.4
Lentil, succulent shelled	0.3
* * * * *	
Onion, bulb, subgroup 3–07A	0.3
Onion, green, subgroup 3–07B	3
Onion, potato [2]	3.0
Pepper/eggplant subgroup 8–10B	3
Pigeon pea, edible podded	0.4
Pigeon pea, succulent shelled	0.3
* * * * *	
Snap pea, edible podded	0.4
Snow pea, edible podded	0.4
Sugar snap pea, edible podded	0.4
Tomato subgroup 8–10A	1
Vegetable, brassica, head and stem, group 5–16, except broccoli	35
* * * * *	
Vegetable, tuberous and corm, subgroup 1C	0.8

* * *

[2] This tolerance expires on April 7, 2020.

* * * * *

[FR Doc. 2019–21542 Filed 10–4–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2018–0656; FRL–9999–54]

Chlorantraniliprole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of chlorantraniliprole in or on palm, oil. FMC Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective October 7, 2019. Objections and requests for hearings must be received on or before December 6, 2019, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2018–0656, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William

Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2018–0656 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before December 6, 2019. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2018–0656, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of December 21, 2018 (83 FR 65660) (FRL–9985–67), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 8E8699) by FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104. The petition requested that 40 CFR 180.628 be amended by establishing tolerances for residues of the insecticide chlorantraniliprole, 3-bromo-*N*-[4-chloro-2-methyl-6-[(methylamino)-carbonyl]phenyl]-1-(3-chloro-2-pyridinyl)-1*H*-pyrazole-5-carboxamide, in or on palm, oil at 1.5 parts per million (ppm). That document referenced a summary of the petition prepared by FMC Corporation, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

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

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

A. Toxicological Profile

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

Chlorantraniliprole does not exhibit immunotoxicity, neurotoxicity, carcinogenicity, or developmental toxicity. Additionally, no mutagenicity concerns were reported in the genotoxicity studies.

In oral and dermal toxicity studies in rats, minimally increased microvesiculation of adrenal cortex was observed mostly in males; however, supporting data demonstrated no effect on the capacity of the adrenal gland to produce corticosterone following stimulation. Therefore, adrenal cortex

effects observed in rat studies were not considered adverse.

Chlorantraniliprole does not exhibit prenatal or postnatal toxicity as there were no maternal or fetal effects in studies conducted in rats and rabbits. The relative absence of mammalian hazard may be due in part to chlorantranilprole's selectivity for insect ryanodine receptor (RyR) over mammalian counterparts. In short-term mammalian studies, the most consistent effects are increased liver weights and mild induction of liver enzymes.

Chlorantraniliprole is classified as not likely to be carcinogenic to humans, based on the weight of evidence of the data. No treatment-related tumors were reported in the submitted chronic and oncogenicity studies in rats and mice (18-month carcinogenicity study) or in the subchronic studies in mice, dogs, and rats.

Specific information on the studies received and the nature of the adverse effects caused by chlorantraniliprole as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document ''Chlorantraniliprole: Human Health Risk Assessment for Proposed Uses on Palm Oil without U.S. Registration'' at pp.4–5 in docket ID number EPA–HQ–OPP–2018–0656.

B. Toxicological Points of Departure/Levels of Concern

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

A summary of the toxicological endpoints for chlorantraniliprole used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of July 27, 2011 (76 FR 44815) (FRL–8875–5).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to chlorantraniliprole, EPA considered exposure under the petitioned-for tolerances as well as all existing chlorantraniliprole tolerances in 40 CFR 180.628. EPA assessed dietary exposures from chlorantraniliprole in food as follows:

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

No such effects were identified in the toxicological studies for chlorantraniliprole; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the United States Department of Agriculture (USDA) 2003–2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEA). As to residue levels in food, EPA assumed 100 percent crop treated (PCT) and tolerance-level residues for all current crops.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that chlorantraniliprole does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

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

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for chlorantraniliprole in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of chlorantraniliprole. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Pesticide Root Zone Model Ground Water (PRZM GW), the estimated drinking water concentrations (EDWCs) of chlorantraniliprole for chronic exposures for non-cancer assessments are estimated to be 39.9 ppb for surface water and 207 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For chronic dietary risk assessment, the water concentration value of 207 ppb was used to assess the contribution to drinking water.

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

Chlorantraniliprole is currently registered for the following uses that could result in residential exposures: Sod farms/turf, landscape ornamentals and interiorscapes, and as a termiticide. Residential exposure is expected to occur for short-term and intermediate-term durations; however, due to the lack of toxicity identified for short- and intermediate-term durations via relevant routes of exposure, residential exposure was not assessed. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf.*

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

EPA has not found chlorantraniliprole to share a common mechanism of toxicity with any other substances, and chlorantraniliprole does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that chlorantraniliprole does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a

common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* There were no effects on prenatal fetal growth or postnatal development up to the limit dose of 1,000 milligrams/kilogram/day (mg/kg/day) in rats or rabbits in the developmental or 2-generation reproduction studies. Moreover, there were no treatment-related effects on the numbers of litters, fetuses (live or dead), resorptions, sex ratio, or post-implantation losses. There were no effects on fetal body weights, skeletal ossification, and external, visceral, or skeletal malformations or variations.

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

i. The toxicity database for chlorantraniliprole is complete.

ii. There is no indication that chlorantraniliprole is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that chlorantraniliprole results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100% CT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to chlorantraniliprole in drinking water. Due to the lack of toxicity via the dermal route, as well as the lack of toxicity over the acute-, short- and intermediate-term via the oral route, no risk is expected from post-application exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by chlorantraniliprole.

E. Aggregate Risks and Determination of Safety

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

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, chlorantraniliprole is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to chlorantraniliprole from food and water will utilize 8.1% of the cPAD for children 1 to 2 years old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of chlorantraniliprole is not expected.

3. *Short-term and intermediate-term risk.* Short-term and intermediate-term aggregate exposure takes into account short-term and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Because no short-term or intermediate-term adverse effect was identified, the aggregate short-term or intermediate-term risk is the same as the dietary risk, which will not be greater than the chronic aggregate risk.

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, chlorantraniliprole is not expected to pose a cancer risk to humans.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (liquid chromatography mass spectrometry (LC/MS/MS); Method DuPont-11374) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

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

The Codex has not established a MRL for chlorantraniliprole in or on palm oil.

V. Conclusion

Therefore, tolerances are established for residues of chlorantraniliprole, 3-bromo-N-[4-chloro-2-methyl-6-[(methylamino)carbonyl]phenyl]-1-(3-chloro-2-pyridinyl)-1 H-pyrozole-5-carboxamide, in or on palm oil at 1.5 ppm.

VI. Statutory and Executive Order Reviews

This action establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735,

October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997); or Executive Order 13771, entitled ''reducing Regulations and Controlling Regulatory Costs (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

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

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

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

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: September 23, 2019.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.628, amend the table in paragraph (a) by adding alphabetically an entry for ''Palm, oil'' to read as follows:

§ 180.628 Chlorantraniliprole; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Palm, oil [2]	1.5
* * * * *	

[2] There are no U.S. registrations for use of chlorantraniliprole on this commodity.

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[FR Doc. 2019–21541 Filed 10–4–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2018–0779; FRL–9996–14]

Thiamethoxam; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of thiamethoxam in or on rice. This action is in response to EPA's granting of an emergency exemption under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on rice. This regulation establishes a maximum permissible level for residues of thiamethoxam in or on these commodities. The time-limited tolerances expire on December 31, 2024. This action is also associated with the utilization of a crisis exemption under the FIFRA authorizing use of the pesticide on rice.

DATES: This regulation is effective October 7, 2019. Objections and requests for hearings must be received on or before December 6, 2019 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2018–0779, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

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

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

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.* To access the OCSPP test guidelines referenced in this document electronically, please go to *https://www.epa.gov/aboutepa/about-office-chemical-safety-and-pollution-prevention-ocspp* and select ''Test Methods and Guidelines.''

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

Under section 408(g) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2018–0779 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before December 6, 2019. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2018–0779, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets/where-send-comments-epa-dockets.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with FFDCA sections 408(e) and 408(l)(6) of, 21 U.S.C. 346a(e) and 346a(1)(6), is establishing time-limited tolerances for residues of thiamethoxam, 3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-*N*-nitro-4*H*-1,3,5-oxadiazin-4-imine, in or on rice, grain at 6 parts per million (ppm) and rice, straw at 2 ppm. These time-limited tolerances expire on December 31, 2024.

Section 408(l)(6) of FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on FIFRA section 18 related time-limited tolerances to set binding precedents for the application of FFDCA section 408 and the safety standard to other tolerances and exemptions. Section 408(e) of FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, *i.e.,* without having received any petition from an outside party.

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

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Thiamethoxam on Rice and FFDCA Tolerances

During 2015, the first year the rice delphacid pest appeared in Texas, the Texas Department of Agriculture (TDA) reported ratoon rice losses as high as 25%. TDA claims that they are experiencing high numbers of rice delphacid in ratoon rice and recently, pest populations over 8,000 nymphs and adult rice delphacids per 10 sweeps were observed in a rice field in Galveston county. Approximately 60% of Texas' rice crop is ratooned and in 2018, this represented more than 100,000 acres. There are no insecticides labeled specifically for rice delphacid, and TDA says that products registered for leafhopper control in rice are not efficacious in controlling rice delphacid. On October 31, 2018, the TDA issued a crisis exemption for use of thiamethoxam on rice. The crisis exemption expired on November 9, 2018. Due to the short duration of the crisis exemption, the pest was not fully controlled and therefore, TDA submitted a quarantine request for this use pattern.

After having reviewed the submission, EPA determined that an emergency condition existed in this State, and that the criteria for approval of an emergency exemption were met. On March 3, 2019, EPA authorized a quarantine exemption under FIFRA section 18 for the use of thiamethoxam on rice for control of rice delphacid in Texas.

As part of its evaluation of the emergency exemption application, EPA assessed the potential risks presented by residues of thiamethoxam in or on rice. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent, non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment as provided in FFDCA section 408(l)(6). Although these time-limited tolerances expire on December 31, 2024, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on rice after that date will not be unlawful, provided the pesticide was applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these time-limited tolerances at the time of that application. EPA will take action to revoke these time-limited tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these time-limited tolerances are being approved under emergency conditions, EPA has not made any decisions about whether thiamethoxam meets FIFRA's registration requirements for use on rice or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that this time-limited tolerance decision serves as a basis for registration of thiamethoxam by a State for special local needs under FIFRA section 24(c), nor does this tolerance by itself serve as the authority for persons in any State other than Texas to use this pesticide on the applicable crops under FIFRA section 18, absent the issuance of an emergency exemption applicable within that State. For additional information regarding the emergency exemption for thiamethoxam, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of, and to make a determination on, aggregate exposure expected as a result of this emergency exemption request and the time-limited tolerances for residues of thiamethoxam on rice, grain at 6 ppm rice, straw at 2 ppm. EPA's assessment of exposures and risks associated with establishing time-limited tolerances follows.

A. Toxicological Points of Departure/ Levels of Concern

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

A summary of the toxicological endpoints for thiamethoxam used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of February 15, 2017 (82 FR 10714) (FRL–9957–00).

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to thiamethoxam, EPA considered exposure under the time-limited tolerances established by this action as well as all existing thiamethoxam tolerances in 40 CFR 180.565. EPA assessed dietary exposures from thiamethoxam in food as follows:

i. *Acute exposure.* Acute effects were identified for thiamethoxam. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) 2003–2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, EPA assumed tolerance level residues and 100 percent crop treated.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA's 2003–2008 NHANES/ WWEIA). As to residue levels in food, EPA assumed field-trial average residues and 100 percent crop treated (PCT).

iii. *Cancer.* Based on the data summarized in Unit IV.A., EPA has concluded that thiamethoxam does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for thiamethoxam. Tolerance level residues and 100 PCT were assumed for all food commodities.

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

Based on the Pesticides in Flooded Applications Model (PFAM) or Tier 1 Rice Model and Pesticide in Water Calculator (PWC)), the estimated drinking water concentrations (EDWCs) of thiamethoxam for acute exposures are estimated to be 20 ppb parts per billion (ppb) for surface water and 63 ppb for ground water.

For chronic exposures for non-cancer assessments EDWCs are estimated to be 1.05 ppb for surface water and 58 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 63 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration value of 58 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in

this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Thiamethoxam is currently registered for the following uses that could result in residential exposures: Turfgrass (including golf courses, residential lawns, and athletic fields), residential landscapes, structural/perimeter applications (indoors and outdoors in schools, apartments, etc.), and indoor control of bed bugs. EPA assessed residential exposure using the following assumptions: Short-term exposures, lasting from 1 to 30 days, may occur from uses of thiamethoxam in residential settings. These exposures may occur by dermal, inhalation, and incidental oral (children <6 years old) routes.

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

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

EPA has not found thiamethoxam to share a common mechanism of toxicity with any other substances, and thiamethoxam does not appear to produce a toxic metabolite produced by other substances. Thiamethoxam and its clothianidin metabolite have different mechanisms of toxicity in mammals, and since clothianidin has a complete database owing to its registration as a pesticide active ingredient, it is appropriate for EPA to evaluate its risks separately. For the purposes of this tolerance action, therefore, EPA has assumed that thiamethoxam does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

C. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* In mammals, toxicological effects are seen primarily in the liver, kidney, testes, and blood cellular (hematopoietic) system. In addition, developmental neurological effects were observed in rats. These developmental effects were used to assess risk associated with acute exposure to thiamethoxam, and the liver and testicular effects are the basis for assessing longer-term exposures. The PODs used for risk assessment are protective of all effects, including quantitative susceptibility observed in developmental and reproduction studies, and the exposure assessments do not underestimate exposures.

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

i. The toxicity database for thiamethoxam is complete.

ii. Evidence of neurotoxicity was seen in the acute and DNT studies in the rat. However, there is a low degree of concern for the potential neurotoxic effects of thiamethoxam since: (1) Clear NOAELs were identified for the neurotoxic effects; (2) the neurotoxic effects were not the most sensitive endpoint in the toxicity database; and (3) the endpoints chosen for risk assessment are protective of any potential neurotoxicity.

iii. There is no evidence that thiamethoxam results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study. There was no evidence of increased quantitative susceptibility in the core guideline toxicity studies. The maternal/parental NOAELs/LOAELs in the 1998 two-generation reproduction toxicity study and the core developmental toxicity studies (rats and rabbits) occur at doses lower than or equal to the developmental/offspring NOAELs/LOAELs and are, therefore, not indicative of a quantitative susceptibility. Furthermore, the severity of effects in the parent and fetus/offspring generations in the three studies are comparable and therefore are not indicative of qualitative sensitivity. However, in the DNT and the 2004 2-generation reproduction toxicity studies in rats, developmental/offspring effects were seen in the absence of maternal toxicity; therefore, there is evidence of quantitative susceptibility. In the 2004 two-generation rat reproduction study, decreased total litter weights were observed in pups in the absence of parental adverse effects. In the rat DNT study, decreased body weight and body weight gain, as well as reduced brain weight and size were observed in the pups in the absence of adverse effects in dams. However, considering the overall toxicity profile and the doses and endpoints selected for risk assessment, the degree of concern for the effects observed in the studies is low because (1) the developmental/offspring effects observed in the studies are well characterized and (2) clear NOAELs/LOAELs have been identified in the studies for the effects of concern. Additionally, the Agency is confident that the endpoints and PODs selected for risk assessment are protective of potential developmental/reproductive effects.

iv. There are no residual uncertainties identified in the exposure databases. There are no residual uncertainties with respect to dietary or residential exposure. The dietary exposure assessments are based on high-end residue levels from crop field trials and empirical and default processing factors, both of which account for parent and metabolites of concern, and the assumption of 100 PCT for all agricultural commodities. Furthermore, conservative, upper-bound assumptions were used to determine exposure through drinking water, such that these exposures have not been underestimated. Therefore, the actual risk from exposure to thiamethoxam will likely be much lower than calculated risk estimates. In addition, the residential exposure estimates are conservative and do not underestimate exposure and risk. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to thiamethoxam in drinking water. EPA used similarly conservative assumptions to assess post-application exposure of youth and children as well as incidental oral exposure of children 1 to 2 years old (1 < 2). These assessments will not

underestimate the exposure and risks posed by thiamethoxam.

D. Aggregate Risks and Determination of Safety

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

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to thiamethoxam will occupy 12% of the aPAD for children 1 to 2 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to thiamethoxam from food and water will utilize 74% of the cPAD for (children 1 to 2 years old) the population group receiving the greatest exposure.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Thiamethoxam is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to thiamethoxam.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs ranging from 130 for adults to 330 for children less than 6 years old. Because EPA's level of concern for thiamethoxam is an MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level). Because no intermediate-term adverse effect was identified, thiamethoxam is not expected to pose an intermediate-term risk.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, thiamethoxam is not expected to pose a cancer risk to humans.

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

V. Other Considerations

A. Analytical Enforcement Methodology

An adequate method using liquid solvent extraction, solvent and solid-phase extraction clean-up, and high-performance liquid chromatography (HPLC) Method AG–675, is available to enforce the tolerance expression.

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

B. International Residue Limits

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

Neither the Codex nor Canada has established specific MRLs for thiamethoxam residues in rice commodities. Canada has established an ''All food crops'' MRL at 0.02 ppm for thiamethoxam that would apply to rice, but it is not specific to a use on rice.

VI. Conclusion

Therefore, time-limited tolerances are established for residues of thiamethoxam, 3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-*N*-nitro-4*H*-1,3,5-oxadiazin-4-imine, in or on rice, grain at 6 ppm and rice, straw at 2 ppm. These tolerances expire on December 31, 2024.

VII. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA sections 408(e) and 408(l)(6). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established in accordance with FFDCA sections 408(e) and 408(l)(6), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action

does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

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

VIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: September 19, 2019.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.565, revise paragraph (b) to read as follows:

§ 180.565 Thiamethoxam; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances specified in the table are established for residues of the insecticide thiamethoxam, including its metabolites and degradates. Compliance with the tolerance levels specified below is to be determined by measuring only thiamethoxam 3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-N-nitro-4H–1,3,5-oxadiazin-4-imine and its metabolite CGA–322704 N-[(2-chloro-thiazol-5-yl)methyl]-N′-methyl-N″-nitro-guanidine, calculated as the stoichiometric equivalent of thiamethoxam, in or on the specified agricultural commodities, resulting from use of the pesticide pursuant to FFIFRA section 18 emergency exemptions. The tolerances expire on the date specified in the table.

Commodity	Parts per million	Expiration date
Rice, grain	6	12/31/2024
Rice, straw	2	12/31/2024

* * * * *

[FR Doc. 2019–21539 Filed 10–4–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2019–0141; FRL–9996–15]

Clothianidin; Pesticide Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of clothianidin in or on rice, grain. This action is in response to EPA's granting of an emergency exemption under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of thiamethoxam on rice. Emergency use of thiamethoxam on rice results in potential clothianidin (a major metabolite of thiamethoxam) residues that when combined with the residues from legal use of clothianidin on rice, require an increase in the tolerance for residues of clothianidin in rice. Although there is an existing regulation establishing a maximum permissible level for residues of clothianidin in or on rice, grain at 0.01 ppm, this rule would establish a new, time-limited maximum permissible level at 0.5 ppm for clothianidin in or on rice, grain. The time-limited tolerance expires on December 31, 2024. This action is also associated with the utilization of a crisis exemption under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of thiamethoxam on rice.

DATES: This regulation is effective October 7, 2019. Objections and requests for hearings must be received on or before December 6, 2019 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2019–0141, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

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

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

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Publishing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.* To access the OCSPP test guidelines referenced in this document electronically, please go to *https://www.epa.gov/aboutepa/about-office-chemical-safety-and-pollution-prevention-ocspp.* and select ''Test Methods and Guidelines.''

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

Under section 408(g) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation

in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2019–0141 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before December 6, 2019. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2019–0141, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets/where-send-comments-epa-dockets.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with FFDCA sections 408(e) and 408(l)(6) of, 21 U.S.C. 346a(e) and 346a(1)(6), is establishing a time-limited tolerance for residues of clothianidin, (*E*)-*N*-[(2-chloro-5-thiazolyl)methyl]-*N′* -methyl-*N″* -nitroguanidine, in or on rice, grain at 0.5 parts per million (ppm). This time-limited tolerance expires on December 31, 2024.

Section 408(l)(6) of FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on FIFRA section 18 related time-limited tolerances to set binding precedents for the application of FFDCA section 408 and the safety standard to other tolerances and exemptions. Section 408(e) of FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, *i.e.,* without having received any petition from an outside party.

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

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Thiamethoxam on Rice and FFDCA Tolerances for Clothianidin Residues

During 2015, the first year the rice delphacid pest appeared in Texas, the Texas Department of Agriculture (TDA) reported ratoon rice losses as high as 25%. TDA claims that they are experiencing high numbers of rice delphacid in ratoon rice and recently, pest populations over 8,000 nymphs and adult rice delphacids per 10 sweeps were observed in a rice field in Galveston county. Approximately 60% of Texas' rice crop is ratooned and in 2018, this represented more than 100,000 acres. There are no insecticides labeled specifically for rice delphacid, and TDA says that products registered for leafhopper control in rice are not efficacious in controlling rice delphacid. On October 31, 2018, the TDA issued a crisis exemption for use of thiamethoxam on rice. The crisis exemption expired on November 9, 2018. Due to the short duration of the crisis exemption, the pest was not fully controlled and therefore, TDA submitted a quarantine request for this use pattern.

After having reviewed the submission, EPA determined that an emergency condition existed in this State, and that the criteria for approval of an emergency exemption were met. On March 3, 2019, EPA authorized a quarantine exemption under FIFRA section 18 for the use of thiamethoxam on rice for control of rice delphacid in Texas. EPA is establishing a time-limited tolerance for thiamethoxam on rice through a separate rulemaking. The emergency use of thiamethoxam in rice can potentially result in residues of clothianidin (a major metabolite of thiamethoxam) which might exceed the existing tolerance level of 0.01 ppm clothianidin in rice. Therefore, a time-limited tolerance for residues of clothianidin in rice, grain is being established. As part of its evaluation of the emergency exemption application for thiamethoxam, EPA assessed the potential risks presented by residues of clothianidin in or on rice, since clothianidin is a major metabolite of thiamethoxam. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent, non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment as provided in FFDCA section 408(l)(6). Although this time-limited tolerance expires on December 31, 2024, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on rice after that date will not be unlawful, provided the pesticide was applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these time-limited tolerances at the time of that application. EPA will take action to revoke these time-limited tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe. This time-limited tolerance increase is being approved to

address the potential increase in clothianidin residues from the use of thiamethoxam under emergency conditions. The clothianidin risk assessment appears in the February 6, 2019 memorandum titled ''Thiamethoxam. 19TX02 and 19TX03. Human Health Risk Assessment for Section 18 Emergency Exemption Use on Rice in Texas.'' Under these circumstances, EPA does not believe that this time-limited tolerance decision serves as a basis for registration of clothianidin by a State for special local needs under FIFRA section 24(c), nor does this tolerance by itself serve as the authority for persons in any State other than Texas to use clothianidin on the applicable crops under FIFRA section 18, absent the issuance of an emergency exemption applicable within that State. For additional information regarding the emergency exemption for clothianidin, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of, and to make a determination on, aggregate exposure expected as a result of this emergency exemption request for thiamethoxam, and the time-limited tolerances for residues of clothianidin on rice, grain at 0.5 ppm. EPA's assessment of exposures and risks associated with establishing time-limited tolerances follows.

A. Toxicological Points of Departure/ Levels of Concern

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

A summary of the toxicological endpoints for clothianidin used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of August 29, 2012 (77 FR 52248) (FRL–9360–4).

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to clothianidin, EPA considered exposure from application of thiamethoxam under the time-limited tolerances established by this action as well as all existing clothianidin tolerances in 40 CFR 180.586. EPA assessed dietary exposures from clothianidin in food as follows:

i. *Acute exposure.* Acute effects were identified for clothianidin. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) 2003–2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, EPA assumed tolerance-level residues and that 100% of the commodities in the assessment were treated (100 PCT) with both clothianidin and thiamethoxam.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 2003–2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, EPA assumed field-trial average residues and that 100% of the commodities in the assessment were treated (100 PCT) with both clothianidin and thiamethoxam.

iii. *Cancer.* Based on the data summarized in Unit IV.A., EPA has concluded that clothianidin does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for clothianidin. Tolerance level residues and 100% CT were assumed for all food commodities with both clothianidin and thiamethoxam.

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

Based on the Pesticides in Water Calculator and Tier 1 Rice Model, the estimated drinking water concentrations (EDWCs) of clothianidin for acute exposures are estimated to be 67 parts per billion (ppb) for surface water and 180 ppb for ground water. For chronic exposures for non-cancer assessments are estimated to be 67 ppb for surface water and 139 ppb for ground water. This is based on use of clothianidin as a pesticide active ingredient and does not include clothianidin as a thiamethoxam metabolite, because when thiamethoxam is applied to crops, the clothianidin metabolite is not a major residue in drinking water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 180 ppb was used to assess the contribution to drinking water.

For chronic dietary risk assessment, the water concentration value of 139 ppb was used to assess the contribution to drinking water.

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

Clothianidin is currently registered for the following uses that could result in residential exposures: Turf, ornamental plants and indoor surfaces. EPA assessed residential exposure using the following assumptions: Short-term handler (adults) and post-application exposures (adults and children) may occur in accordance with existing uses.

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

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

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

C. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* There is no residual concern for increased qualitative or quantitative susceptibility in the rat or rabbit developmental toxicity studies; however, there was increased quantitative susceptibility in the two-generation reproduction and developmental neurotoxicity studies in the rat, as the offspring NOAELs were below the parental NOAELs. Clear NOAELs were identified for the offspring effects in these rat studies. There were indications of potential immunotoxicity in the database. Decreased absolute and relative thymus and spleen weights were observed in multiple studies. Juvenile rats in the two-generation reproduction study appeared to be more susceptible to these effects, indicating a concern for qualitative susceptibility. However, a guideline immunotoxicity study showed no evidence of clothianidin-mediated immunotoxicity in adult rats, and a developmental immunotoxicity study demonstrated no susceptibility with respect to offspring immunotoxicity. Therefore, the residual concern for immunotoxicity in adults and offspring is reduced. Since there is evidence of increased quantitative susceptibility of the young following exposure to clothianidin in the rat reproduction study and the rat developmental neurotoxicity study (DNT), the Agency performed a degree of concern analysis to: (1) Determine the level of concern for the effects observed when considered in the context of all available toxicity data; and, (2) identify any residual uncertainties after establishing toxicity endpoints and traditional uncertainty factors to be used in the clothianidin risk assessment. If residual uncertainties are identified, the Agency examines whether the residual uncertainties can be addressed by a FQPA safety factor, and if so, what factors should be retained. Considering the overall toxicity profile and the endpoints and doses selected for the clothianidin risk assessment, the Agency characterized the degree of concern for the effects observed in the clothianidin two-generation reproduction and DNT studies as *low* because: (1) There are clear NOAELs for the offspring effects and regulatory doses were selected to be protective against these effects; (2) no other residual uncertainties were identified with respect to susceptibility of infants and children; and (3) the endpoints and doses selected for clothianidin are protective against adverse effects in both offspring and adults.

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

i. The toxicity database for clothianidin is complete, and includes developmental neurotoxicity, adult immunotoxicity and developmental immunotoxicity studies.

ii. The degree of concern for the quantitative susceptibility observed in the clothianidin two-generation reproduction and DNT studies is low based on the clear NOAELs for the offspring effects and the selection of regulatory doses that are protective of those effects.

iii. The rat is the most sensitive species tested, and the NOAEL and LOAEL selected from the two-generation reproduction study in rats are protective of effects observed in other species throughout the toxicology database.

iv. There are no residual uncertainties for pre- and/or post-natal toxicity.

v. The Agency is regulating the use of clothianidin based upon the most sensitive offspring effects observed in the reproduction toxicity study, and therefore the risk assessment is protective of these and other effects that occurred at higher doses.

vi. The exposure databases (dietary food, drinking water, and residential) are complete.

vii. The risk assessment for each potential exposure scenario includes all metabolites and/or degradates of concern and does not underestimate potential exposure and risk for infants or children. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to clothianidin in drinking water. EPA used similarly conservative assumptions to assess post application exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by clothianidin.

D. Aggregate Risks and Determination of Safety

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

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to clothianidin will occupy 19% of the aPAD for infants less than 1-year old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to clothianidin from food and water will utilize 9% of the cPAD for (infants less than 1-year old), the population group receiving the greatest exposure. Based on the explanation in the unit regarding residential use patterns, chronic residential exposure to residues of clothianidin is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Clothianidin is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to clothianidin.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 390 for adults and 150 for children. Because EPA's level of concern for clothianidin is an MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level). Because no intermediate-term adverse effect was identified, clothianidin is not expected to pose an intermediate-term risk.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, clothianidin is not expected to pose a cancer risk to humans.

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

V. Other Considerations

A. Analytical Enforcement Methodology

An adequate method using liquid solvent extraction, solvent and solid-phase extraction clean-up, and high-performance liquid chromatography (HPLC) Method AG–675, is available to enforce the tolerances.

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

B. International Residue Limits

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

The time-limited tolerance of 0.5 ppm in or on rice, grain is consistent with the existing Codex MRL of 0.5 ppm. EPA is recommending that the tolerance level of 0.4 ppm suggested by the OECD Calculation Procedures be raised to 0.5 ppm to harmonize with the Codex MRL. The Agency notes that the compliance residue definitions for the US, Canada, and Codex are harmonized; all specify only clothianidin.

VI. Conclusion

Therefore, a time-limited tolerance is established for residues of clothianidin, (*E*)-*N*-[(2-chloro-5-thiazolyl)methyl]-*N′* -methyl-*N″* -nitroguanidine, in or on rice, grain at 0.5 ppm. This tolerance expires on December 31, 2024.

VII. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA sections 408(e) and 408(l)(6). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established in accordance with FFDCA sections 408(e) and 408(l)(6), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: September 19, 2019.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.586, add alphabetically the entry ''Rice, grain'' to the table in paragraph (b) to read as follows:

§ 180.586 Clothianidin; tolerances for residues.

* * * * *

Commodity	Parts per million	Expiration date
*	*	*
Rice, grain	0.5	12/31/2024

* * * * *

[FR Doc. 2019–21540 Filed 10–4–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[4500090022]

Endangered and Threatened Wildlife and Plants; Twelve Species Not Warranted for Listing as Endangered or Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of findings.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce findings that 12 species are not warranted for listing as endangered or threatened species under the Endangered Species Act of 1973, as amended (Act). After a thorough review of the best available scientific and commercial information, we find that it is not warranted at this time to list the Berry Cave salamander, cobblestone tiger beetle, Florida clamshell orchid, longhead darter, Ocala vetch, Panamint alligator lizard, Peaks of Otter salamander, redlips darter, Scott riffle beetle, southern hognose snake, yellow anise tree, and yellow-cedar. However, we ask the public to submit to us at any time any new information relevant to the status of any of the species mentioned above or their habitats.

DATES: The findings in this document were made on October 7, 2019.

ADDRESSES: Detailed descriptions of the basis for each of these findings are available on the internet at *http://www.regulations.gov* under the following docket numbers:

Species	Docket No.
Berry Cave salamander	FWS–R4–ES–2019–0048
Cobblestone tiger beetle	FWS–R5–ES–2019–0074
Florida clamshell orchid	FWS–R4–ES–2019–0075
Longhead darter	FWS–R5–ES–2019–0076
Ocala vetch	FWS–R4–ES–2019–0077
Panamint alligator lizard	FWS–R8–ES–2015–0105
Peaks of Otter salamander	FWS–R5–ES–2015–0106
Redlips darter	FWS–R4–ES–2019–0078
Scott riffle beetle	FWS–R6–ES–2015–0114
Southern hognose snake	FWS–R4–ES–2015–0063
Yellow anise tree	FWS–R4–ES–2019–0079
Yellow-cedar	FWS–R7–ES–2015–0025

Supporting information used to prepare these findings is available for public inspection, by appointment, during normal business hours, by contacting the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**. Please submit any new information, materials, comments, or questions concerning these findings to the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT:

Species	Contact information
Berry Cave salamander	Lee Andrews, Field Supervisor, Tennessee and Kentucky Ecological Services Field Offices, 502–695–0468, ext. 108.
Cobblestone tiger beetle	Tom Chapman, Supervisor, New England Field Office, 603–223–2541.
Florida clamshell orchid	Roxanna Hinzman, Field Supervisor, South Florida Field Office, 772–469–4310.
Longhead darter	John Schmidt, Project Leader, West Virginia Field Office, 304–636–6586.
Ocala vetch	Jay Herrington, Field Supervisor, North Florida Field Office, 904–731–3191.
Panamint alligator lizard	Gjon Hazard, Biologist, Carlsbad Fish and Wildlife Office, 760–431–9440, ext. 287.
Peaks of Otter salamander	Cindy Schulz, Supervisor, Virginia Field Office, 804–824–2426.
Redlips darter	Lee Andrews, Field Supervisor, Tennessee and Kentucky Ecological Services Field Offices, 502–695–0468, ext. 108.
Scott riffle beetle	Gibran Suleiman, Biologist, Kansas Ecological Services Field Office, 785–539–3474, ext. 114.

Species	Contact information
Southern hognose snake	Tom McCoy, Field Supervisor, South Carolina Ecological Service Field Office, 843–727–4707, ext. 227.
Yellow anise tree	Jay Herrington, Field Supervisor, North Florida Field Office, 904–731–3191.
Yellow-cedar	Stewart Cogswell, Field Supervisor, Anchorage Field Office, 907–271–2787.

If you use a telecommunications device for the deaf (TDD), please call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Under section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq.*), we are required to make a finding whether or not a petitioned action is warranted within 12 months after receiving any petition for which we have determined contained substantial scientific or commercial information indicating that the petitioned action may be warranted (''12-month finding''). We must make a finding that the petitioned action is: (1) Not warranted; (2) warranted; or (3) warranted but precluded. ''Warranted but precluded'' means that (a) the petitioned action is warranted, but the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether species are endangered or threatened species, and (b) expeditious progress is being made to add qualified species to the Lists of Endangered and Threatened Wildlife and Plants (Lists) and to remove from the Lists species for which the protections of the Act are no longer necessary. Section 4(b)(3)(C) of the Act requires that we treat a petition for which the requested action is found to be warranted but precluded as though resubmitted on the date of such finding, that is, requiring that a subsequent finding be made within 12 months of that date. We must publish these 12-month findings in the **Federal Register**.

Summary of Information Pertaining to the Five Factors

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations at part 424 of title 50 of the Code of Federal Regulations (50 CFR part 424) set forth procedures for adding species to, removing species from, or reclassifying species on the Lists. The Act defines ''endangered species'' as any species that is in danger of extinction throughout all or a significant portion of its range (16 U.S.C. 1532(6)), and ''threatened species'' as any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range (16 U.S.C. 1532(20)). Under section 4(a)(1) of the Act, a species may be determined to be an endangered species or a threatened species because of any of the following five factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

In considering whether a species may meet the definition of an endangered species or a threatened species because of any of the five factors, we must look beyond the mere exposure of the species to the stressor to determine whether the species responds to the stressor in a way that causes actual impacts to the species. If there is exposure to a stressor, but no response, or only a positive response, that stressor does not cause a species to meet the definition of an endangered species or a threatened species. If there is exposure and the species responds negatively, we determine whether that stressor drives or contributes to the risk of extinction of the species such that the species warrants listing as an endangered or threatened species. The mere identification of stressors that could affect a species negatively is not sufficient to compel a finding that listing is or remains warranted. For a species to be listed or remain listed, we require evidence that these stressors are operative threats to the species and its habitat, either singly or in combination, to the point that the species meets the definition of an endangered or a threatened species under the Act.

In conducting our evaluation of the five factors provided in section 4(a)(1) of the Act to determine whether the Berry Cave salamander (*Gyrinophilus gulolineatus*), cobblestone tiger beetle (*Cicindela marginipennis*), *Prosthechea cochleata* var. *triandra* (Florida clamshell orchid), longhead darter (*Percina macrocephala*), *Vicia ocalensis* (Ocala vetch), Panamint alligator lizard (*Elgaria panamintina*), Peaks of Otter salamander (*Plethodon hubrichti*), redlips darter (*Etheostoma maydeni*), Scott riffle beetle (*Optioservus phaeus*), southern hognose snake (*Heterodon simus*), *Illicium parviflorum* (yellow anise tree), and *Callitropsis nootkatensis* (yellow-cedar) meet the definition of ''endangered species'' or ''threatened species,'' we considered and thoroughly evaluated the best scientific and commercial information available regarding the past, present, and future stressors and threats. We reviewed the petitions, information available in our files, and other available published and unpublished information. These evaluations may include information from recognized experts; Federal, State, and tribal governments; academic institutions; foreign governments; private entities; and other members of the public.

The species assessments for the Berry Cave salamander, cobblestone tiger beetle, Florida clamshell orchid, longhead darter, Ocala vetch, Panamint alligator lizard, Peaks of Otter salamander, redlips darter, Scott riffle beetle, southern hognose snake, yellow anise tree, and yellow-cedar contain more detailed biological information, a thorough analysis of the listing factors, and an explanation of why we determined that these species do not meet the definition of an endangered species or a threatened species. This supporting information can be found on the internet at *http://www.regulations.gov* under the appropriate docket number (see **ADDRESSES**, above). The following are informational summaries for each of the findings in this document.

Berry Cave Salamander

Previous Federal Actions

On January 22, 2003, we received a petition from Dr. John Nolt requesting that the Berry Cave salamander be listed as an endangered species under the Act. On March 18, 2010, we published a 90-day finding in the **Federal Register** (75 FR 13068), concluding that the petition presented substantial information indicating that listing the Berry Cave salamander may be warranted. On March 22, 2011, we published a 12-month finding in the **Federal Register** (76 FR 15919) in which we stated that listing the Berry Cave salamander as endangered or threatened was warranted primarily due to habitat modification. However, listing was precluded at that time by higher priority actions, and the species was added to the candidate species list. From 2011 through 2016, we addressed the status of the Berry Cave salamander annually

in our candidate notice of review, with the determination that listing was warranted, but precluded (see 76 FR 66370, October 26, 2011; 77 FR 69994, November 21, 2012; 78 FR 70104, November 22, 2013; 79 FR 72450, December 5, 2014; 80 FR 80584, December 24, 2015; 81 FR 87246, December 2, 2016).

Summary of Finding

The Berry Cave salamander is a member of the Tennessee cave salamander species complex. It is differentiated from other species by a distinctive dark spot or stripe on the anterior portion of the throat, a wider head, and flatter snout. The species is endemic to eastern Tennessee, where it was known historically from ten caves. The current range of the species is similar to its historical range, and recent surveys indicate the species currently occurs in nine caves.

Water quality and availability are fundamental to the survival of the Berry Cave salamander. The underground streams inhabited by Berry Cave salamanders are dynamic and vary in depth and velocity depending on local precipitation. The Berry Cave salamander is typically found resting on the bottom of pools and underneath cover, such as rocks, logs, and other organic debris either in low-velocity pools with mud substrate or in pools with gravel or cobble substrate.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Berry Cave salamander, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these stressors. The primary stressors affecting the species' biological status include decreased substrate and water quality. Since our previous 12-month findings, additional surveys and analysis of those data have provided a better understanding of the Berry Cave salamander. The surveys provided new information regarding the species' range, population dynamics and life history. We incorporated this new information into our status review and found that despite impacts from stressors, the species continues to persist across most of its historical range and has been found in additional caves outside its known historical range. Although we predict some continued impacts from these stressors in the foreseeable future, we anticipate the species will remain viable with resilient populations distributed within its representative physiographic province.

Therefore, we find that listing the Berry Cave salamander as an endangered species or threatened species under the Act is not warranted. A detailed discussion of the basis for this finding can be found in the Berry Cave salamander species assessment and other supporting documents (see **ADDRESSES**, above).

Cobblestone Tiger Beetle

Previous Federal Actions

On April 20, 2010, we received a petition from the Center for Biological Diversity, Alabama Rivers Alliance, Clinch Coalition, Dogwood Alliance, Gulf Restoration Network, Tennessee Forests Council, and West Virginia Highlands Conservancy to list 404 aquatic, riparian, and wetland species, including the cobblestone tiger beetle, as endangered or threatened species under the Act. On September 27, 2011, we published a 90-day finding in the **Federal Register** (76 FR 59836), concluding that the petition presented substantial information indicating that listing the cobblestone tiger beetle may be warranted. This notice constitutes our 12-month finding on the April 20, 2010, petition to list the cobblestone tiger beetle under the Act.

Summary of Finding

Cobblestone tiger beetles are approximately 11 to 14 millimeters (0.4 to 0.6 inches) in length and have large mandibles used to capture prey. Their hardened forewings are dull olive with a cream-colored border. When the forewings are spread, their bright red-orange abdomens are exposed.

The species occurs in several States throughout the eastern United States and into New Brunswick, Canada, and lives in riverine or shoreline habitats with cobble substrates. While there is no overall population estimate of the cobblestone tiger beetle, the species likely functions within a metapopulation structure. Its cobble bar habitat is found in hydrological regimes that undergo periods of intense scouring or flooding that create, maintain, and occasionally destroy the habitat. Vegetation is also an important component of the beetle's habitat, although plant species composition, structure, and density parameters will vary throughout the species' range.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the cobblestone tiger beetle, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these stressors. The primary stressors affecting the species' biological status include those related to changes in the natural hydrological regime and the effects of climate change, including increased temperatures, flooding, and storms. Our review indicates that despite these stressors, the continued persistence of occupied areas across the species' range provides sufficient resiliency, redundancy, and representation to sustain the species beyond the near term. Despite some reduction in its range, there is currently representation across the majority of the species' historical range. Where extant, the species has sufficient resiliency and redundancy to withstand environmental or demographic stochastic events as well as catastrophic events. Therefore, the risk of extinction is currently extremely low. In the future, the species is expected to retain its resiliency, redundancy, and representation to a sufficient degree such that the species will not be in danger of extinction in the foreseeable future.

Therefore, we find that listing the cobblestone tiger beetle as an endangered species or threatened species under the Act is not warranted. A detailed discussion of the basis for this finding can be found in the cobblestone tiger beetle species assessment and other supporting documents (see **ADDRESSES**, above).

Florida Clamshell Orchid

Previous Federal Actions

On April 20, 2010, we received a petition from the Center for Biological Diversity, Alabama Rivers Alliance, Clinch Coalition, Dogwood Alliance, Gulf Restoration Network, Tennessee Forests Council, and West Virginia Highlands Conservancy to list 404 aquatic, riparian, and wetland species, including the Florida clamshell orchid, as endangered or threatened species under the Act. On September 27, 2011, we published a 90-day finding in the **Federal Register** (76 FR 59836), concluding that the petition presented substantial information indicating that listing the Florida clamshell orchid may be warranted. This notice constitutes our 12-month finding on the April 20, 2010, petition to list the Florida clamshell orchid under the Act.

Summary of Finding

The Florida clamshell orchid is a showy, flowering plant endemic to southern Florida. The species grows with the presence of a symbiotic fungus attached to tree limbs or snags. The orchid is found high in the tree canopy of a variety of south Florida habitat

types: Pond apple slough, strand swamp, dome swamp, rockland hammock, coastal buttonwood hammock, and mesic (moderately wet) and hydric (wet) prairie hammock.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Florida clamshell orchid, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these stressors. The primary stressors affecting the species' biological status include habitat modification and destruction due to sea level rise, saltwater intrusion, and increasing hurricane storm surge.

Despite these past and ongoing stressors, the Florida clamshell orchid remains extant in 15 of its 18 historical populations, which provides redundancy for the species. In addition, these populations are highly resilient because they exist in favorable habitat conditions with host trees and adequate hydrology and moisture regimes. In addition, all populations (together extending approximately 809,000 hectares (2,000,000 acres)) are on public lands managed for conservation. Among numerous conservation efforts, the species is protected by the State of Florida under the Regulated Plant Index (which defines the categories of regulated plants in the state and lists the species in each category) and is the subject of successful propagation and reintroduction programs on the Florida Panther National Wildlife Refuge. In the foreseeable future, we anticipate sea level rise will reduce the resiliency of some populations and overall species redundancy; however, we predict inland populations to remain protected and resilient such that the species will not become endangered within the foreseeable future.

Therefore, we find that listing the Florida clamshell orchid as an endangered species or threatened species under the Act is not warranted. A detailed discussion of the basis for this finding can be found in the Florida clamshell orchid species assessment and other supporting documents (see **ADDRESSES**, above).

Longhead Darter

Previous Federal Actions

On April 20, 2010, we received a petition from the Center for Biological Diversity, Alabama Rivers Alliance, Clinch Coalition, Dogwood Alliance, Gulf Restoration Network, Tennessee Forests Council, and West Virginia Highlands Conservancy to list 404 aquatic, riparian, and wetland species, including the longhead darter, as endangered or threatened species under the Act. On September 27, 2011, we published a 90-day finding in the **Federal Register** (76 FR 59836), concluding that the petition presented substantial information indicating that listing the longhead darter may be warranted. This notice constitutes our 12-month finding on the April 20, 2010, petition to list the longhead darter under the Act.

Summary of Finding

The longhead darter is a small freshwater fish, approximately 10 centimeters (4 inches) long, with a sharply pointed snout; brown, tan, olive, or straw-colored back and upper sides; a white or light yellow lower and underside; and a black, blotchy lateral line. The longhead darter is found in six states throughout the eastern United States. Rivers within the longhead darter's range are ecologically diverse. River gradients range from low to high, with variable substrate (*e.g.,* rocky, sandy with cobble, sandy with glacial till) and variable alkalinity. Five of 10 historical populations are extant; the species is relatively common in some of these populations, and the distribution is expanding in others. Of the remaining five historical populations, three are extirpated, and the statuses of two are unknown. However, there are ongoing reintroduction efforts in central Ohio, and fish have already been reintroduced in one extirpated population.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the longhead darter, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these stressors. The primary stressors affecting the species' biological status include sedimentation, poor water quality, habitat fragmentation, and, to a lesser extent, effects of invasive species and effects of climate change, including increases in temperature, extreme precipitation, and drought. Despite these stressors and some level of decline in abundance, including the loss of at least three of its historical populations, the species continues to maintain resilient populations over time. Although we predict some continued impacts from these stressors in the foreseeable future, we anticipate this species will continue to have resilient populations that are distributed widely throughout its range.

Therefore, we find that listing the longhead darter as an endangered species or threatened species under the Act is not warranted. A detailed discussion of the basis for this finding can be found in the longhead darter species assessment and other supporting documents (see **ADDRESSES**, above).

Ocala Vetch

Previous Federal Actions

On April 20, 2010, we received a petition from the Center for Biological Diversity, Alabama Rivers Alliance, Clinch Coalition, Dogwood Alliance, Gulf Restoration Network, Tennessee Forests Council, and West Virginia Highlands Conservancy to list 404 aquatic, riparian, and wetland species, including the Ocala vetch, as endangered or threatened species under the Act. On September 27, 2011, we published a 90-day finding in the **Federal Register** (76 FR 59836), concluding that the petition presented substantial information indicating that listing the Ocala vetch may be warranted. This notice constitutes our 12-month finding on the April 20, 2010, petition to list the Ocala vetch under the Act.

Summary of Finding

The Ocala vetch is an herbaceous, relatively robust perennial vine found in open marshy, shoreline habitats in Marion, Lake, and Volusia Counties in Florida. Four of the five areas where Ocala vetch occur are along Alexander Springs, Juniper Creek, Salt Springs, and Silver Glen Springs within Ocala National Forest, and the fifth area is along Lake Dexter within Lake Woodruff National Wildlife Refuge. The Ocala vetch has nearly hairless stems attaining lengths of 1.2 meters (3.9 feet) or more. The flowers are 10 to 12 millimeters (0.4 to 0.5 inches) long, with lavender blue to white petals and a faintly striped banner petal. As with most plants, the Ocala vetch requires sunlight, carbon dioxide, water, soil, and essential nutrients to survive and grow. It is a dicot flowering plant that requires insect pollination for seed production. Adult plants produce flowers from March to June.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Ocala vetch, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these stressors. The primary stressor we identified in our analysis was sea level rise, which will likely have an impact on the future condition of the species. Historically, the species was known

from three locations, but two additional populations were discovered in 2018, expanding its current number of populations to five. In the future, we anticipate sea level rise will result in inundation of one of the species' five populations. Despite this primary stressor, the remaining populations of the Ocala vetch will continue to maintain adequate resiliency, and provide redundancy and representation for the species to remain viable in the foreseeable future.

Therefore, we find that listing the Ocala vetch as an endangered species or threatened species under the Act is not warranted. A detailed discussion of the basis for this finding can be found in the Ocala vetch species assessment and other supporting documents (see **ADDRESSES**, above).

Panamint Alligator Lizard

Previous Federal Actions

On July 11, 2012, we received a petition from the Center for Biological Diversity to list 53 species of reptiles and amphibians, including the Panamint alligator lizard, as endangered or threatened species under the Act. On September 18, 2015, we published a 90-day finding in the **Federal Register** (80 FR 56423), concluding that the petition presented substantial information indicating that listing the Panamint alligator lizard may be warranted. This notice constitutes our 12-month finding on the July 11, 2012, petition to list the Panamint alligator lizard under the Act.

Summary of Finding

The Panamint alligator lizard is a secretive species known only from a remote region in eastern California. Individuals can grow to be about 15 centimeters (6 inches) long from snout to vent, but have a tail that may extend up to twice that length. Dorsally, they range in color from beige to brown and have seven to eight darker cross bands; ventrally, they are whitish with gray splotches. The basic life cycle of the Panamint alligator lizard is typical of most oviparous (egg-laying) lizards: Eggs hatch to become nonbreeding juveniles, which then grow and mature to become breeding adults. Specifically, Panamint alligator lizards are known from six desert mountain ranges in Mono and Inyo Counties, California (roughly north to south): White, Inyo, Nelson, Coso, Argus, and Panamint. There is little information to suggest the species' historical range differs from its current range. Panamint alligator lizards are typically associated with the region's few riparian areas, but the species also occurs in the more plentiful talus (sloping) areas.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Panamint alligator lizard, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these stressors. The primary stressors affecting the species' biological status include reduced surface water, degraded riparian vegetation, impacts to refugia, crushing and other direct mortality, collecting, disease, predation, barriers to dispersal, small population effects, and the effects of climate change, including drought. While these stressors are likely impacting individuals, we do not have evidence of population-level impacts. In addition, while stressors caused by effects of climate change could occur over time, we do not expect them to be severe enough to impact the overall viability of the species. Lastly, ongoing Federal land management actions and existing regulatory mechanisms, which protect lizards and their habitat in at least 98.7 percent of the species' range, will continue to ameliorate threats into the foreseeable future.

Therefore, we find that listing the Panamint alligator lizard as an endangered species or threatened species under the Act is not warranted. A detailed discussion of the basis for this finding can be found in the Panamint alligator lizard species assessment and other supporting documents (see **ADDRESSES**, above).

Peaks of Otter Salamander

Previous Federal Actions

On July 11, 2012, we received a petition from the Center for Biological Diversity to list 53 species of reptiles and amphibians, including the Peaks of Otter salamander, as endangered or threatened species under the Act. On September 18, 2015, we published a 90-day finding in the **Federal Register** (80 FR 56423), concluding that the petition presented substantial information indicating that listing the Peaks of Otter salamander may be warranted. This notice constitutes our 12-month finding on the July 11, 2012, petition to list the Peaks of Otter salamander under the Act.

Summary of Finding

The Peaks of Otter salamander is a narrow-ranging, endemic, terrestrial salamander. It occurs in approximately 116 square kilometers (45 square miles) of mature forested habitats of the mountaintops and high-elevation areas between Flat Top Mountain and White Oak Ridge in Bedford and Botetourt Counties, Virginia. The species' habitat is almost entirely restricted to the Glenwood Ranger District of the George Washington and Jefferson National Forests and primarily between mile 77 and 84 of the National Park Service's Blue Ridge Parkway, with some limited occurrences on adjacent private lands. While there is no overall population estimate for the Peaks of Otter salamander, the best available information indicates the species historically and currently functions as a single population; we subdivided this population into 20 analytical units to assess the species' current and future condition.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Peak of Otter salamander, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these stressors. The primary stressors affecting the species' biological status include activities (primarily timber harvest) that disrupt or remove the forest canopy, understory vegetation, and cover objects; competition with red-backed salamanders; and changing climate patterns of increasing temperatures and changes in precipitation patterns. Except for one of its 20 analytical units, the Peaks of Otter salamander continues to occupy most of its known historical range. The species is well distributed throughout its range, across a variety of elevations and habitat types, and it appears that there are some local adaptations, which may be important to the species' ability to adapt to future changes in environmental conditions. The species currently has good representation, redundancy, and resiliency.

In the foreseeable future, a number of potential threats could negatively affect demographics or habitat, including habitat degradation or loss, competition, hybridization, and disease, all of which may be exacerbated by effects of changing climatic conditions. Our future predictions of resiliency indicate that the Peaks of Otter salamander is not likely to be significantly affected by the modelled threats and its analytical units are not particularly vulnerable to extirpation from stochastic events. Because conservation measures that protect the species and its habitat are currently being implemented and have been shown to be effective, it is likely

that the species will remain resilient throughout its range in the future.

Therefore, we find that listing the Peaks of Otter salamander as an endangered species or threatened species under the Act is not warranted. A detailed discussion of the basis for this finding can be found in the Peaks of Otter salamander species assessment and other supporting documents (see **ADDRESSES**, above).

Redlips Darter

Previous Federal Actions

On April 20, 2010, we received a petition from the Center for Biological Diversity, Alabama Rivers Alliance, Clinch Coalition, Dogwood Alliance, Gulf Restoration Network, Tennessee Forests Council, and West Virginia Highlands Conservancy to list 404 aquatic, riparian, and wetland species, including the ashy darter (*Etheostoma cinereum*), as endangered or threatened species under the Act. On September 27, 2011, we published a 90-day finding in the **Federal Register** (76 FR 59836), concluding that the petition presented substantial information indicating that listing the ashy darter may be warranted. Since publication of the 90-day finding, the redlips darter was taxonomically split from the ashy darter species complex based on morphological and genetic differences. On April 4, 2019, we published a 12-month finding in the **Federal Register** (84 FR 13237), concluding that listing the ashy darter was not warranted. However, we found it appropriate to conduct a discretionary status review of the redlips darter to determine whether it warrants listing.

Summary of Finding

The redlips darter is a small (about 11 centimeters (4.5 inches) long), colorful freshwater fish. This species is endemic to the Cumberland River drainage and occurs in four of its tributary systems in Kentucky and Tennessee: The Obey River, South Fork Cumberland River, Buck Creek, and Rockcastle River. The redlips darter is found on or near the stream bottom, in clear pools or eddies of medium to large upland streams, with silt-free sand or gravel substrates interspersed with large cobble, boulders, and, often, stands of water willow. Males and females become sexually mature between 1 and 2 years of age. Spawning occurs annually, starting as early as January and ending in early April, with peak activity in mid-March. Aquatic macroinvertebrates, including midge larvae, burrowing mayfly larvae, and worms are the primary prey items of the redlips darter. The maximum reported age of individuals is 52 months.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the redlips darter, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these stressors. The primary stressors affecting the species' biological status include water quality degradation from siltation and contaminants, and impoundments. In spite of water quality threats that have acted on the species historically and impoundments that have and will continue to limit connectivity between its populations, the redlips darter has expanded its range in each of the four river or stream systems it inhabits. In two of these systems, populations are composed of tens of thousands of individuals and have high resilience to environmental perturbations. Only one population currently has low resilience, although it is improving. Based on these population attributes, we found the species is not in danger of extinction currently or in the foreseeable future.

Therefore, we find that listing the redlips darter as endangered or threatened is not warranted. A detailed discussion of the basis for this finding can be found in the redlips darter species assessment form and other supporting documents (see **ADDRESSES**, above).

Scott Riffle Beetle

Previous Federal Actions

On September 20, 2013, we received a petition from WildEarth Guardians, requesting that the Scott riffle beetle be listed as an endangered or threatened species under the Act. On January 12, 2016, we published a 90-day finding in the **Federal Register** (81 FR 1368), concluding that the petition presented substantial information indicating that listing the Scott riffle beetle may be warranted. This notice constitutes our 12-month finding on the September 20, 2013, petition to list the Scott riffle beetle under the Act.

Summary of Finding

The Scott riffle beetle is a small, dark brown to black, aquatic beetle, 2.62 to 2.90 millimeters (0.10 to 0.11 inches) in length. The Scott riffle beetle occurs in only one known historical location at Historic Lake Scott State Park in Kansas. The beetle relies on the spring where it lives for consistent groundwater discharge; relatively shallow, unpolluted, oxygenated water; coarse substrate, such as medium sized rocks or broken concrete; an abundance of aquatic macrophytes, algae, and periphyton; and the availability of adjacent terrestrial habitat.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Scott riffle beetle, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these stressors. The primary stressors affecting the species' biological status include decreased groundwater flow related to regional water usage (which is also affected by drought due to climate change), water contamination, terrestrial invasive plant species, and loss of spring habitat. Our review found that, currently, the Scott riffle beetle has sufficient resiliency to withstand stochastic events. Also, as far as we know given past and recent survey efforts, there has been no known reduction in the species' redundancy or representation from historical conditions. The species and spring habitat itself are well protected from the effects of potential stochastic and catastrophic events because the spring has unique characteristics including its topographic location, elevation, geographic location within the aquifer, and direction of groundwater flow, which provide a high level of resilience to the biggest concern for the species: Diminished spring discharge and flow. In addition, the park surrounding the species and spring habitat are managed for their conservation by the State. Thus, the key habitat features the beetle relies on are currently present and will likely continue to be present in the foreseeable future.

Therefore, we find that listing the Scott riffle beetle as an endangered species or threatened species under the Act is not warranted. A detailed discussion of the basis for this finding can be found in the Scott riffle beetle species assessment and other supporting documents (see **ADDRESSES**, above).

Southern Hognose Snake

Previous Federal Actions

On July 11, 2012, we received a petition from the Center for Biological Diversity to list 53 species of reptiles and amphibians, including the southern hognose snake, as endangered or threatened species under the Act. On July 1, 2015, we published a 90-day finding in the **Federal Register** (80 FR 37568), concluding that the petition presented substantial information indicating that listing the southern hognose snake may be warranted. This

notice constitutes our 12-month finding on the July 11, 2012, petition to list the southern hognose snake under the Act.

Summary of Finding

The southern hognose snake is the smallest of the hognose snakes and is associated with xeric (dry) longleaf pine savannah, flatwoods, and sandhills from southeastern North Carolina, South Carolina, Georgia, and Florida. The species occupies upland habitat with well-drained, sandy soils, characterized by pine-dominated or pine-oak woodland where the canopy is open with a grassy understory.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the southern hognose snake, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these stressors. The primary stressor affecting the species' biological status is habitat loss due to fire suppression, timber harvesting, sea level rise, conversion of land to agriculture, and urbanization. We found that the species' resilience may be reduced into the future, primarily due to loss of high quality and quantity habitat. However, populations persist across much of the species' historical range and 70 percent are likely to remain on the landscape, demonstrating a fairly high level of resilience. In addition, the species has sufficient redundancy and representation with more than two populations in six of its nine representative units.

In the future, while the species is expected to decline and some populations are likely to become extirpated, the species is expected to retain viability with resilient populations across much of its current range. Despite loss of redundancy and representation across its current range, representation will remain relatively high with seven of nine representative units remaining occupied with multiple populations. Redundancy and representation will likely decline from current conditions; however, the southern hognose snake is expected to remain viable into the foreseeable future.

Therefore, we find that listing the southern hognose snake as an endangered species or threatened species under the Act is not warranted. A detailed discussion of the basis for this finding can be found in the southern hognose snake species assessment and other supporting documents (see **ADDRESSES**, above).

Yellow Anise Tree

Previous Federal Actions

On April 20, 2010, we received a petition from the Center for Biological Diversity, Alabama Rivers Alliance, Clinch Coalition, Dogwood Alliance, Gulf Restoration Network, Tennessee Forests Council, and West Virginia Highlands Conservancy to list 404 aquatic, riparian, and wetland species, including the yellow anise tree, as endangered or threatened species under the Act. On September 27, 2011, we published a 90-day finding in the **Federal Register** (76 FR 59836), concluding that the petition presented substantial information indicating that listing the yellow anise tree may be warranted. This notice constitutes our 12-month finding on the April 20, 2010, petition to list the yellow anise tree under the Act.

Summary of Finding

The yellow anise tree is a large, aromatic, perennial, evergreen shrub or a small tree that can reach up to 6 meters (20 feet) in height. It is a facultative wetland species found in spring-fed wetlands, seepage slopes or seepage streams, basin swamps, baygalls, bottomland forests, and hydric hammocks, from which they may extend to mesic hammocks, xeric hammocks, and wet or bottom flatwoods. The species is endemic to eastern Florida and occurs in three metapopulations.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the yellow anise tree, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these stressors. The primary stressors affecting the species' biological status include habitat destruction, water use, over-harvest, and the effects of climate change, including increased temperatures, changes in precipitation patterns, increased hurricanes and storms, and sea level rise. Currently, there is little evidence that these stressors are limiting the growth and reproduction of the species, and populations have maintained moderate to high resiliency. In addition, the life history and adaptive capacity of the species allows it to persist during times of drought and wet conditions, as well as during hurricane and storm events. Although we project that changes in climate patterns and habitat destruction due to development will impact yellow anise tree populations over the next 50 years, we predict that these impacts will be minimal. Lastly, we anticipate the species will continue to maintain moderate to high resiliency populations that are distributed across the historical range of the species.

Therefore, we find that listing the yellow anise tree as an endangered species or threatened species under the Act is not warranted. A detailed discussion of the basis for this finding can be found in the yellow anise tree species assessment and other supporting documents (see **ADDRESSES**, above).

Yellow-Cedar

Previous Federal Actions

On June 24, 2014, we received a petition from the Center for Biological Diversity, The Boat Company, Greater Southeast Alaska Conservation Community, and Greenpeace to list yellow-cedar as an endangered or threatened species under the Act. On April 10, 2015, we published a 90-day finding in the **Federal Register** (80 FR 19259), concluding that the petition presented substantial information indicating yellow-cedar may warrant listing. This notice constitutes our 12-month finding on the June 24, 2014, petition to list yellow-cedar under the Act.

Summary of Finding

Yellow-cedar is a slow growing tree that can live 500 to 700 years with individuals documented up to 1,600 years old. Yellow-cedar has a moderately broad geographic range, extending from southern Alaska to northern California, and occupies a wide variety of ecological niches. It reaches its largest size on well-drained soils but can employ a strategy of slow, shrub-like growth on the fringes of bogs and other poorly drained soils where nutrient availability is low. Yellow-cedar reproduces sexually through seed and asexually through vegetative layering (rooting of branches that grow into independent clones), but regeneration through layering is more common.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the yellow-cedar, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these stressors. The primary stressors affecting the species' biological status include the effects of climate change (including changes in temperature and precipitation patterns), timber harvest, fire, and herbivory. We found that yellow-cedar is experiencing a decline

primarily caused by a changing climate in the core of its range; therefore, it has somewhat reduced resiliency. However, the area affected represents less than 6 percent of the species' range, and there are still high levels of representation and redundancy as demonstrated by its high levels of genetic diversity and wide distribution on the landscape, respectively. Despite impacts from effects of climate change, timber harvest, fire, and other stressors, the species is expected to persist in thousands of stands across its range, in a variety of ecological niches, with no predicted decrease in overall genetic diversity into the foreseeable future.

Therefore, we find that listing the yellow-cedar as an endangered species or threatened species under the Act is not warranted. A detailed discussion of the basis for this finding can be found in the yellow-cedar species assessment and other supporting documents (see **ADDRESSES**, above).

New Information

We request that you submit any new information concerning the taxonomy of, biology of, ecology of, status of, or stressors to the Berry Cave salamander, cobblestone tiger beetle, Florida clamshell orchid, longhead darter, Ocala vetch, Panamint alligator lizard, Peaks of Otter salamander, redlips darter, Scott riffle beetle, southern hognose snake, yellow anise tree, and yellow-cedar to the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**, whenever it becomes available. New information will help us monitor these species and make appropriate decisions about their conservation and status. We encourage local agencies and stakeholders to continue cooperative monitoring and conservation efforts.

References Cited

Lists of the references cited in the petition findings are available on the internet at *http://www.regulations.gov* in the dockets provided above in **ADDRESSES** and upon request from the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**.

Authors

The primary authors of this document are the staff members of the Species Assessment Team, Ecological Services Program.

Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: September 16, 2019.

Margaret E. Everson,

Principal Deputy Director, U.S. Fish and Wildlife Service, Exercising the Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2019–21605 Filed 10–4–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 180831813–9170–02]

RIN 0648–XY024

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

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

ACTION: Temporary rule; closure.

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

DATES: Effective 1200 hours, Alaska local time (A.l.t.), October 3, 2019, through 2400 hours, A.l.t., December 31, 2019.

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

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

The 2019 Pacific cod total allowable catch (TAC) apportioned to catcher vessels less than 50 feet LOA using hook-and-line gear in the Central Regulatory Area of the GOA is 831 metric tons (mt), as established by the final 2019 and 2020 harvest specifications for groundfish of the GOA (84 FR 9416, March 14, 2019).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the 2019 Pacific cod TAC apportioned to catcher vessels less than 50 feet LOA using hook-and-line gear in the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 821 mt and is setting aside the remaining 10 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels less than 50 feet LOA using hook-and-line gear in the Central Regulatory Area of the GOA. While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure of Pacific cod by catcher vessels less than 50 feet LOA using hook-and-line gear in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 1, 2019.

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

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

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

Dated: October 2, 2019.

Jennifer M. Wallace,

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

[FR Doc. 2019–21782 Filed 10–2–19; 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–XY041

Fisheries of the Exclusive Economic Zone Off Alaska; Exchange of Flatfish 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; reallocation.

SUMMARY: NMFS is exchanging unused yellowfin sole Community Development Quota (CDQ) for rock sole CDQ acceptable biological catch (ABC) reserves in the Bering Sea and Aleutian Islands management area. This action is necessary to allow the 2019 total allowable catch of flathead sole and yellowfin sole in the Bering Sea and Aleutian Islands management area to be harvested.

DATES: Effective October 7, 2019 through December 31, 2019.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands management area (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.

The 2019 flathead sole, rock sole, and yellowfin sole CDQ reserves specified in the BSAI are 1,552 metric tons (mt), 5,440 mt, and 16,078 mt as established by the final 2019 and 2020 harvest specifications for groundfish in the BSAI (84 FR 9000, March 13, 2019) and flatfish exchange (84 FR 49067, September 18, 2019). The 2019 flathead sole, rock sole, and yellowfin sole CDQ ABC reserves are 5,577 mt, 7,283 mt, and 12,084 mt as established by the final 2019 and 2020 harvest specifications for groundfish in the BSAI (84 FR 9000, March 13, 2019) and flatfish exchange (84 FR 49067, September 18, 2019).

The Aleutian Pribilof Island Community Development Association has requested that NMFS exchange 400 mt of rock sole CDQ reserves for 50 mt of flathead sole CDQ ABC reserves and 350 mt of yellowfin sole CDQ ABC reserves under § 679.31(d). Therefore, in accordance with § 679.31(d), NMFS exchanges 400 mt of rock sole CDQ reserves for 50 mt of flathead sole CDQ ABC reserves and 350 mt of yellowfin sole CDQ ABC reserves in the BSAI. This action also decreases and increases the TACs and CDQ ABC reserves by the corresponding amounts. Tables 11 and 13 of the final 2019 and 2020 harvest specifications for groundfish in the BSAI (84 FR 9000, March 13, 2019) and revised in flatfish exchanges (84 FR 49067, September 18, 2019), are further revised as follows:

TABLE 11—FINAL 2019 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS

[Amounts are in metric tons]

Sector	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	Eastern Aleutian District	Central Aleutian District	Western Aleutian District	BSAI	BSAI	BSAI
TAC	11,009	8,385	10,000	21,350	39,000	155,250
CDQ	1,178	897	1,070	1,602	5,040	16,428
ICA	100	60	10	3,000	6,000	4,000
BSAI trawl limited access	973	743	178			18,351
Amendment 80	8,758	6,685	8,742	16,749	27,960	116,471

Note: Sector apportionments may not total precisely due to rounding.

TABLE 13—FINAL 2019 AND 2020 ABC SURPLUS, ABC RESERVES, COMMUNITY DEVELOPMENT QUOTA (CDQ) ABC RESERVES, AND AMENDMENT 80 ABC RESERVES IN THE BSAI FOR FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE

[Amounts are in metric tons]

Sector	2019 Flathead sole	2019 Rock sole	2019 Yellowfin sole	2020 [1] Flathead sole	2020 [1] Rock sole	2020 [1] Yellowfin sole
ABC	66,625	118,900	263,200	68,448	143,700	257,800
TAC	21,350	39,000	155,250	14,500	57,100	166,425
ABC surplus	45,275	79,900	107,950	53,948	86,600	91,375
ABC reserve	45,275	79,900	107,950	53,948	86,600	91,375
CDQ ABC reserve	5,527	7,683	11,734	5,772	9,266	9,777
Amendment 80 ABC reserve	39,748	72,217	96,216	48,176	77,334	81,598

[1] The 2020 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2019.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the flatfish exchange by the Aleutian Pribilof Island Community Development Association in the BSAI. Since these fisheries are currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 24, 2019.

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

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

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

Dated: September 30, 2019.

Alan D. Risenhoover,

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

[FR Doc. 2019–21570 Filed 10–4–19; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 84, No. 194
Monday, October 7, 2019

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0757; Airspace Docket No. 19–AEA–13]

RIN 2120–AA66

Proposed Amendment of the Class E Airspace; Coudersport, PA; and Revocation of Class E Airspace; Galeton, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class E airspace extending upward from 700 feet above the surface at Charles Cole Memorial Hospital Heliport, Coudersport, PA, and revoke the Class E airspace extending upward from 700 feet above the surface at Cherry Springs Airport, Galeton, PA. The FAA is proposing this action as the result of the closure of the Cherry Spring Airport. The geographic coordinates of Charles Cole Memorial Hospital Heliport would also be updated to coincide with the FAA's aeronautical database. Airspace redesign is necessary for the safety and management of instrument flight rules (IFR) operations at Charles Cole Memorial Hospital Heliport.

DATES: Comments must be received on or before November 21, 2019.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2019–0757; Airspace Docket No. 19–AEA–13, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class E airspace extending upward from 700 feet above the surface at Charles Cole Memorial Hospital Heliport, Coudersport, PA, and revoke the Class E airspace extending upward from 700 feet above the surface at Cherry Springs Airport, Galeton, PA, due to the closure of Cherry Springs Airport and to support IFR operations at these Charles Cole Memorial Hospital Heliport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2019–0757/Airspace Docket No. 19–AEA–13.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

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

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

Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by:

Amending the Class E airspace extending upward from 700 feet above the surface to within a 6.3-mile radius (increased from an 6-mile radius) of Charles Cole Memorial Hospital Heliport, Coudersport, PA; removing the exclusionary language from the airspace legal description as it is no longer required; and updating the geographic coordinates of Charles Cole Memorial Hospital Heliport to coincide with the FAA's aeronautical database;

And removing the Class E airspace extending upward from 700 feet above the surface at Cherry Springs Airport, Galeton, PA, due to the closure of the airport.

This action is the result of an airspace review caused by the closure of the Cherry Springs Airport, Galeton, PA.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

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

* * * * *

AEA PA E5 Coudersport, PA [Amended]

Charles Cole Memorial Hospital Heliport, PA (Lat. 41°46′18″ N, long. 77°58′47″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Charles Cole Memorial Hospital Heliport.

* * * * *

AEA PA E5 Galeton, PA [Removed]

Issued in Fort Worth, Texas, on September 30, 2019.

Steve Szukala,

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

[FR Doc. 2019–21706 Filed 10–4–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 117

[Docket No. FDA–2016–D–2343]

Hazard Analysis and Risk-Based Preventive Controls for Human Food; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA, we, or Agency) is announcing the availability of another draft chapter of a multichapter guidance for industry entitled ''Hazard Analysis and Risk-Based Preventive Controls for Human Food.'' This multichapter draft guidance is intended to explain our current thinking on how to comply with the requirements for hazard analysis and risk-based preventive controls under our rule entitled ''Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food.'' The newly available draft chapter is entitled ''Chapter 14—Recall Plan.''

DATES: Submit either electronic or written comments on the draft guidance by February 4, 2020 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you

do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–D–2343 for ''Hazard Analysis and Risk-Based Preventive Controls for Human Food.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- 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.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Office of Food Safety (HFS–300), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Jenny Scott, Center for Food Safety and Applied Nutrition (HFS–300), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–2166.

SUPPLEMENTARY INFORMATION:

I. Background

The FDA Food Safety Modernization Act (FSMA) (Pub. L. 111–353) enables FDA to better protect public health by helping to ensure the safety and security of the food supply. FSMA enables FDA to focus more on preventing food safety problems rather than relying primarily on reacting to problems after they occur. FSMA recognizes the important role industry plays in ensuring the safety of the food supply, including the adoption of modern systems of preventive controls in food production.

Section 103 of FSMA amended the Federal Food, Drug, and Cosmetic Act (FD&C Act), by adding section 418 (21 U.S.C. 350g) with requirements for hazard analysis and risk-based preventive controls for establishments that are required to register as food facilities under our regulations in 21 CFR part 1, subpart H, in accordance with section 415 of the FD&C Act (21 U.S.C. 350d). We have established regulations to implement these requirements within part 117 (21 CFR part 117).

In the **Federal Register** of August 24, 2016 (81 FR 57816), we announced the availability of several chapters (Chapters 1–5) of a multichapter draft guidance for industry entitled ''Hazard Analysis and Risk-Based Preventive Controls for Human Food.'' In the **Federal Register** of August 31, 2017 (82 FR 41364), and January 25, 2018 (83 FR 3449), we announced the availability of additional chapters (Chapter 6 and Chapter 15, respectively). We now are announcing the availability of an additional draft chapter of this multichapter guidance for industry.

II. Significance of Guidance

This level 1 draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

The multichapter draft guidance for industry is intended to explain our current thinking on how to comply with the requirements for hazard analysis and risk-based preventive controls under part 117, principally in subparts C and G. The chapter that we are announcing in this document is entitled ''Chapter 14—Recall Plan.'' We intend to announce the availability for public comment of additional chapters of the draft guidance as we complete them.

III. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 117 have been approved under OMB control number 0910–0751.

IV. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/FoodGuidances* or *https://www.regulations.gov.* Use the FDA website listed in the previous sentence to find the most current version of the guidance.

Dated: September 27, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–21643 Filed 10–4–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 924

[SATS No. MS–029–FOR; Docket ID: OSM–2019–0008; S1D1S SS08011000 SX064A000 190S180110; S2D2S SS08011000 SX064A000 19XS501520]

Mississippi Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are announcing receipt of a proposed amendment to the Mississippi Abandoned Mine Land Plan (hereinafter, the Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Mississippi proposes revisions to its Plan to allow its AML program to receive limited liability protection for certain non-coal reclamation projects. Mississippi intends to revise its Plan in order to meet the requirements of SMCRA and the implementing Federal regulations.

This document gives the times and locations where the Mississippi Plan and this proposed amendment to that Plan are available for your inspection, establishes the comment period during which you may submit written comments on the amendment, and describes the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4:00 p.m., CST, November 6, 2019. If requested, we will hold a public hearing on the amendment on November 1, 2019. We will accept requests to speak at a hearing until 4:00 p.m., CST on October 22, 2019.

ADDRESSES: You may submit comments, identified by SATS No. MS–029–FOR, by any of the following methods:

- *Mail/Hand Delivery:* Richard O'Dell, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 135 Gemini Circle, Suite 215, Homewood, Alabama 35209.
- *Fax:* (205) 290–7280.
- *Federal eRulemaking Portal:* The amendment has been assigned Docket ID OSM–2019–0008. If you would like to submit comments go to *http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Comment Procedures'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to review copies of the Mississippi Plan, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSMRE's Birmingham Field Office, or the full text of the plan amendment is available for you to review at *www.regulations.gov.*

Richard O'Dell, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 135 Gemini Circle, Suite 215, Homewood, Alabama 35209, Telephone: (205) 290–7282, Email: *rodell@osmre.gov.*

In addition, you may review a copy of the amendment during regular business hours at the following location: Mississippi Office of Geology, Department of Environmental Quality, 700 N. State Street, Jackson, Mississippi 39202, Telephone: (601) 961–5519.

FOR FURTHER INFORMATION CONTACT: Richard O'Dell, Director, Birmingham Field Office. Telephone: (205) 290–7282, Email: *rodell@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Mississippi Plan
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Mississippi Plan

The Abandoned Mine Land Reclamation Program was established by Title IV of the Act (30 U.S.C. 1201 *et seq.*), in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded by a reclamation fee collected on each ton of coal that is produced. The money collected is used to finance the reclamation of abandoned coal mines and for other authorized activities. Section 405 of the Act allows States and Tribes to assume exclusive responsibility for reclamation activity within the State or on Tribal lands if they develop and submit to the Secretary of the Interior for approval, a program (often referred to as a Plan) for the reclamation of abandoned coal mines. On the basis of these criteria, the Secretary of the Interior approved the Mississippi Plan, effective September 27, 2007. You can find background information on the Mississippi Plan, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Mississippi Plan in the September 27, 2007, **Federal Register** (72 FR 54832). You can also find later actions concerning the Mississippi Plan and amendments to the Plan at 30 CFR 924.20 and 924.25.

II. Description of the Proposed Amendment

By letter dated August 27, 2019 (Administrative Record No. MS–0428–01), Mississippi sent us an amendment to its Plan under SMCRA (30 U.S.C. 1201 *et seq.*). Mississippi submitted the proposed amendment in response to a March 6, 2019, letter (Administrative Record No. MS–0428) OSMRE sent to Mississippi in accordance with 30 CFR 884.15. The full text of the plan amendment is available for you to read at the locations listed above under **ADDRESSES**.

Effective March 9, 2015, OSMRE published a final rule allowing certified AML programs to receive limited liability protection for certain non-coal reclamation projects (80 FR 6435). In the March 6, 2019, letter (Administrative Record No. MS–0428), we notified Mississippi that the state must update its Plan in order to meet the requirements of SMCRA and the implementing Federal regulations.

Mississippi proposes to amend its Plan to meet the requirements to receive limited liability protection for certain non-coal reclamation projects, and to meet the requirements of SMCRA and the implementing Federal regulations.

III. Public Comment Procedures

We are seeking your comments on whether the amendment satisfies the applicable plan approval criteria of 30 CFR 884.14 and 884.15. If we approve the amendment, it will become part of the state Plan.

Electronic or Written Comments

If you submit written comments, they should be specific, confined to issues pertinent to the proposed Plan, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final plan will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

Public Availability of Comments

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.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., CST on October 22, 2019. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review and Executive Order 13563—Improving Regulations and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance dated October 12, 1993, the approval of state plan amendments is exempted from OMB review under Executive Order 12866. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a Plan amendment to OSMRE for review, our regulations at 30 CFR 884.14 and 884.15, and agency policy require public notification and an opportunity for public comment. We accomplish this by publishing a notice in the **Federal Register** indicating receipt of the proposed amendment and its text or a summary of its terms. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 924

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 6, 2019.

Alfred L. Clayborne,

Regional Director, DOI Unified Regions 3, 4 and 6.

[FR Doc. 2019–21722 Filed 10–4–19; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2019–0086]

RIN 1625–AA09

Drawbridge Operation Regulation; Hackensack River, Little Snake Hill, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify the operating schedule that governs the Amtrak Portal Bridge across the Hackensack River, mile 5.0, at Little Snake Hill, New Jersey. The bridge owner, National Railroad Passenger Corporation (Amtrak), submitted a request to require a greater advance notice for bridge openings, to increase the time periods the bridge remains in the closed position, and reduce bridge openings during the morning and evening commuter rush hours. It is expected that this change to the regulations will better serve the needs of the community while continuing to meet the reasonable needs of navigation.

DATES: Comments and related material must reach the Coast Guard on or before December 6, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2019–0086 using Federal e-Rulemaking Portal at *http://www.regulations.gov.*

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Judy Leung-Yee, Project Officer, First Coast Guard District, telephone (212) 514–4336, email *Judy.K.Leung-Yee@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
E.O. Executive order
FR Federal Register
OMB Office of Management and Budget
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background, Purpose and Legal Basis

The Amtrak Portal Bridge at mile 5.0, across the Hackensack River, at Little Snake Hill, New Jersey, has a vertical clearance of 23 feet at mean high water and 28 feet at mean low water. Horizontal clearance is approximately 99 feet. The waterway users include recreational and commercial vessels, including tugboat/barge combinations.

The existing drawbridge operating regulations are listed at 33 CFR 117.723(e).

In December of 2018, the owner of the bridge, National Railroad Passenger Corporation, requested a change to the drawbridge operation regulations because the volume of train traffic across the bridge during the peak commuting hours makes bridge

openings impractical under the current schedule. As a result, bridge openings that occur during peak commuter train hours cause significant delays to commuter rail traffic. The owner proposed that the bridge opening schedule be revised so the bridge need not open for the passage of vessel traffic, Monday through Friday, from 5 a.m. to 10 a.m. and from 3 p.m. to 8 p.m. At all other times the bridge shall open on signal if at least 24 hour notice is given.

The Coast Guard reached out to the maritime stakeholders with the requested change proposed by the bridge owner. A stakeholder provided a general objection to the change in the original request in December 2018, prior to the test deviation's publication.

The Coast Guard published a test deviation with request for comment that changed the original request, Hackensack River, New Jersey, in the **Federal Register** (84 FR 9459), in effect from March 15, 2019 through September 9, 2019, to test the proposed changes to the drawbridge operation regulations. The Coast Guard received five comments in the docket regarding this proposed rulemaking. Of those five comments, three came from one commenter and did not address this action. One comment supported the test deviation recommending it be made permanent. The fifth comment came from the aforementioned stakeholder who asked that their original negative comment be uploaded to the docket for the test deviation. The general objection contended that Amtrak's ''inability to operate the Portal Bridge as required'' is not the responsibility of the commenter, and that the proposed changes would fail to solve the maintenance issues with the bridge. The Coast Guard cannot speak to the commenter's assertion on maintenance issues or operational issues, as this proposed change would be for traffic volume purposes.

III. Discussion of Proposed Rule

As a result of comments received from the test deviation and the bridge logs showing only three requests to open from March 14, 2019 through July 12, 2019, the Coast Guard proposes to permanently change the drawbridge operation regulations at 33 CFR 117.723(e), that would allow Amtrak Portal Bridge at mile 5.0, across the Hackensack River, at Little Snake Hill, New Jersey, to operate as follows:

The draw need not open for the passage of vessel traffic from 5 a.m. to 10 a.m. and from 3 p.m. to 8 p.m. Additional bridge openings shall be provided for tide restricted commercial vessels between 7 a.m. and 8 a.m. and between 5 p.m. and 6 p.m., if at least a two-hour advance notice is given by calling the number posted at the bridge. At all other times the bridge shall open on signal if at least two-hour advance notice is given. It is the Coast Guard's opinion that this rule meets the reasonable needs of marine and rail traffic.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on 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 NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the Office of Management and Budget (OMB) has not reviewed the NPRM and pursuant to OMB guidance, it is exempt from the requirements of Executive Order 13771.

The Coast Guard believes this rule is not a significant regulatory action. The bridge will still open for all vessel traffic after a two hour advance notice is given, except during the morning and afternoon commuter rush hour periods, where a one hour time period will allow passage of commercial vessels. The vertical clearance under the bridge in the closed position is relatively high enough to accommodate most vessel traffic during the time periods the draw is closed during the morning and evening commuter rush hours. We believe that this proposed change to the drawbridge operation regulations at 33 CFR 117.723(e) will meet the reasonable needs of navigation.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

The bridge provides 23 feet of vertical clearance at mean high water that should accommodate all the present vessel traffic except deep draft vessels. The bridge will continue to open on signal for any vessel provided at least 2-hour advance notice is given. While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 proposed 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**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

D. Federalism and Indian Tribal Government

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 proposed 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 proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed 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 proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination 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 proposed rule promulgates the operating regulations or procedures for drawbridges. Normally, this action is categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3–1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

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.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal e-Rulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacynotice.*

Documents mentioned in this NPRM as being available in this docket and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; DHS Delegation No. 0170.1.

■ 2. Revise § 117.723(e) to read as follows:

§ 117.723 Hackensack River.

* * * * *

(e) The draw of the Amtrak Portal Bridge, mile 5.0, at Little Snake Hill, New Jersey, need not open for the passage of vessel traffic from 5 a.m. to 10 a.m. and from 3 p.m. to 8 p.m. Additional bridge openings shall be provided for tide restricted commercial vessels between 7 a.m. and 8 a.m. and between 5 p.m. and 6 p.m., if at least a two-hour advance notice is given by calling the number posted at the bridge. At all other times the bridge shall open on signal if at least two-hour advance notice is given.

* * * * *

Dated: September 19, 2019.

A.J. Tiongson,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 2019–21686 Filed 10–4–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 127

[Docket Number USCG–2019–0615]

Waterway Suitability Assessment for Operations of Liquefied Hazardous Gas Terminal; Nederland, TX

AGENCY: Coast Guard, DHS.

ACTION: Notice of inquiry; request for comments.

SUMMARY: We are requesting your comments on a Letter of Intent and Preliminary Waterway Suitability Assessment we received from Sunoco Partners Marketing & Terminals to expand their existing liquefied hazardous gas (LHG) operations by increasing the number of liquefied propane and butane ship visits from approximately 120 per year to 432 ship visits per year. Additionally, they intend to expand operations to include 120 liquefied ethane ship visits per year. The Coast Guard is notifying the public of this proposed increase in LHG marine traffic on the Sabine-Neches Waterway and is soliciting comments relevant to the Coast Guard's preparation of a Letter of Recommendation for issuance to the federal, state, or local agency with jurisdiction over the proposed facility.

DATES: Your comments and related material must reach the Coast Guard on or before November 6, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2019–0615 using the Federal portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of inquiry, call or email Mr. Scott K. Whalen, Vessel Traffic Service Director, Marine Safety Unit Port Arthur, U.S. Coast Guard; telephone 409–719–5086, email *Scott.K.Whalen@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations

COTP Captain of the Port Marine Safety Unit Port Arthur
DHS Department of Homeland Security
LNG Liquefied natural gas
LOI Letter of Intent
LOR Letter of Recommendation
NVIC Navigation and Vessel Inspection Circular
U.S.C. United States Code
WSA Waterway Suitability Assessment

II. Background and Purpose

Under 33 CFR 127.007(a), an owner or operator planning to build a new facility handling liquefied hazardous gas (LHG), or an owner or operator planning new construction to expand or modify marine terminal operations in an existing facility handling LHG, where the construction, expansion, or modification would result in an increase in the size and/or frequency of LHG marine traffic on the waterway associated with the proposed facility or modification to an existing facility, must submit a Letter of Intent (LOI) to the Captain of the Port of the zone in which the facility is or will be located. Under 33 CFR 127.007(e), an owner or operator planning such new construction or expansion of an existing facility must also file or update a Waterway Suitability Assessment (WSA) that addresses the proposed increase in LHG marine traffic in the associated waterway.

Under 33 CFR 127.009, after receiving an LOI, the Captain of the Port issues a Letter of Recommendation (LOR) as to the suitability of the waterway for LHG marine traffic to the appropriate jurisdictional authorities. The LOR is based on a series of factors listed in 33 CFR 127.009 that relate to the physical nature of the affected waterway and issues of safety and security associated with LHG marine traffic on the affected waterway.

III. Information Requested

On March 11, 2013, Sunoco Partners Marketing and Terminals, located in Nederland, TX, submitted an LOI and Preliminary WSA indicating the company's proposed plans to expand operations of an existing dock to handle liquefied hazardous gas, specifically propane and butane, with an estimated 132 vessels calling on the facility each year. On July 14, 2019, the COTP received a new LOI and an Addendum to the original WSA. The purpose of this notice is to solicit public comments on the proposed increase in LNG marine traffic on the Sabine-Neches Waterway. The Coast Guard believes that public input may be useful to the Captain of the Port Marine Safety Unit Port Arthur (COTP) with respect to validating the information provided in Sunoco's LOI and WSA Addendum and the development of the Coast Guard's LOR. A brief summary of Sunoco's proposal is available in the docket where indicated under **ADDRESSES**.

On January 24, 2011, the Coast Guard published Navigation and Vessel Inspection Circular (NVIC) 01–2011, titled ''Guidance Related to Waterfront Liquefied Natural Gas (LNG) Facilities.'' NVIC 01–2011 provides guidance for owners and operators seeking approval to build and operate LNG facilities. The Coast Guard will refer to NVIC 01–2011 for process information and guidance in evaluating Sunoco's WSA Addendum. NVIC 01–2011 is available in the docket where indicated under **ADDRESSES** and also on the Coast Guard's website at *https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/5ps/NVIC/2011/NVIC%2001–2011%20Final.pdf.*

IV. Public Participation and Request for Comments

We encourage you to submit comments through the Federal portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. In your submission, please include the docket number for this notice of inquiry and provide a reason for each suggestion or recommendation.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *https://www.regulations.gov/privacyNotice.*

Documents mentioned in this notice of inquiry as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions.

This document is issued under authority of 5 U.S.C. 552 (a).

Dated: September 30, 2019.

Jacqueline Twomey,

Captain, U.S. Coast Guard, Captain of the Port Marine Safety Unit Port Arthur.

[FR Doc. 2019–21625 Filed 10–4–19; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 501

Authorization To Manufacture and Distribute Postage Evidencing Systems

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes to amend its Postage Evidencing Systems regulations. These changes would put the financial responsibility for returned checks and returned Automatic Clearinghouse (ACH) debit payments on the applicable resetting company (RC) and PC Postage provider. These responsibilities would include collecting a fee from the customer for each returned check and ACH debit payment of $30, as may be adjusted from time to time, and remitting the amount of the returned check or ACH debit payment, as applicable, plus the fee to the Postal Service within 10 calendar days of the date of the invoice. These changes would also update the SSAE 18 requirements and add the requirement for System and Organization Control (SOC) 2 reporting.

DATES: Comments must be received on or before November 6, 2019.

ADDRESSES: Mail or deliver written comments to: Manager, Payment Technology, 475 L'Enfant Plaza SW, Room 3500, Washington, DC 20260. Email and faxed comments are not accepted. You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC 20260. These records are available for review on Monday through Friday, 9 a.m.–4 p.m., by calling 202–268–2904. All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Elizabeth M. Schafer, Treasurer, *elizabeth.m.schafer@usps.gov,* 202–268–6135.

SUPPLEMENTARY INFORMATION: The Postal Service proposes to amend 39 CFR part 501 to make the Resetting Company (RC) and the PC Postage provider, as applicable, financially responsible for returned checks and returned ACH debit payments, to update verbiage, and to require System and Organization Control (SOC) 2 reporting.

The amendment to Section 501.15(g) requires the Resetting Company (RC) to

reimburse the Postal Service upon request for any returned checks or ACH debits for postage payments and clarifies that the RC must, upon first learning of a returned check or ACH debit, immediately lock a customer's account to prevent a meter reset until the RC receives confirmation of payment of the returned items. The requirement encourages the RC to take adequate measures to authenticate the identity of the customer and ensure that the account that is debited is authorized, and clarifies that the RC must prevent customers who have returned checks and/or returned ACH debits from continuing to charge postage until payment is confirmed. It further requires the RC to charge the customer a fee for each returned check and ACH debit of $30, as may be adjusted from time to time, and remit the amount of the returned check or ACH debit payment, as applicable, plus the fee to the Postal Service within 10 calendar days of the invoice.

The amendment to Section 501.15(i) updates Statements on Standards for Attestation Engagements (SSAE) from SSAE 16 to SSAE 18. Section 501.15(i) requires the RC to provide System and Organization Control (SOC) reports that demonstrate effective internal controls. SOC2 reports are a new requirement to support data security and privacy concerns. The American Institute of Certified Public Accountants (AICPA) created the SOC reporting framework as part of the SSAE 18. The SOC framework covers organizational controls over services with the intent to: (1) Address needs and reporting requirements by service organizations, and (2) Provide valuable information, including third party risk assessment. Section 501.15(j) is being changed to replace the term ''provider'' with ''RC'' in the last sentence.

The amendment to Section 501.16(d) requires the PC Postage provider (''provider'') to reimburse the Postal Service upon request for any returned check or ACH debits for postage payments and clarifies that the provider must, upon first learning of a returned check or ACH debit, immediately lock a customer's account to prevent a meter reset until the provider receives confirmation of payment of the returned items. The shift encourages the PC Postage provider to take adequate measures to authenticate the identity of the customer and ensure that the account that is debited is authorized, and clarifies that the provider must prevent customers who have returned ACH debits from continuing to charge postage until payment is confirmed. It further requires the PC Postage Provider to charge the customer a fee of $30, as may be adjusted from time to time, for each returned check and ACH debit payment and remit the amount of the returned check or ACH debit payment, as applicable, plus the fee to the Postal Service within 10 calendar days of the invoice.

The amendment to Section 501.16(i) updates Statements on Standards for Attestation Engagements (SSAE) from SSAE 16 to SSAE 18. This requires the provider to provide System and Organization Control (SOC) reports that demonstrate effective internal controls. SOC2 reports are a new requirement to support data security and privacy concerns. The American Institute of Certified Public Accountants (AICPA) created the SOC reporting framework as part of the SSAE 18. The SOC framework covers organizational controls over services with the intent to: (1) Address needs and reporting requirements by service organizations, and (2) Provide valuable information, including third party risk assessment.

For the reasons stated in the preamble, the Postal Service proposes to amend 39 CFR chapter 501 as follows:

List of Subjects in 39 CFR Part 501

Administrative practice and procedure, Postal Service

PART 501—[AMENDED]

■ 1. The authority citation for part 501 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 410, 2601, 2605; Inspector General Act of 1978, as amended (Pub. L. 95–452, as amended); 5 U.S.C. App. 3.

■ 2. Amend § 501.15 by revising paragraphs (g), (i), and (j) to read as follows:

§ 501.15 Computerized Meter Resetting System

* * * * *

(g) The RC is required to reimburse the Postal Service upon request for any returned checks or ACH debits for postage payments. The RC must, upon first becoming aware of a returned check or ACH debit, immediately lock the customer's CMRS account to prevent a meter reset until the RC receives confirmation of payment for the returned item. The RC is required to charge the customer a returned item fee for returned checks or ACH debits of $30, as may be adjusted from time to time, and remit the fee plus the amount of the returned item to the Postal Service within ten (10) calendar days after the receipt of the invoice.

* * * * *

(i) *Security and Revenue Protection.* To receive Postal Service approval to continue to operate systems in the postage meters environment, the RC must submit to a periodic examination and provide a SOC1 Type II Report of its meter system and any other applications and technology infrastructure that may have a material impact on Postal Service revenues, as determined by the Postal Service. Additionally, RC must submit to a periodic examination and provide a SOC2 Type II Report of its meter system data security, accuracy, processing integrity and data integrity for any applications, reports, and technology infrastructure that may have a material impact on the RC's reports, which the Postal Service relies upon. The examinations shall be performed by a qualified, independent audit firm and shall be conducted in accordance with the Statements on Standards for Attestation Engagements (SSAEs) No. 18, Service Organizations, developed by the American Institute of Certified Public Accountants (AICPA), as amended or superseded. Expenses associated with such examination shall be incurred by the RC. The examination shall include testing of the operating effectiveness of relevant RC internal controls (SOC 1 Type II SSAE 18 & SOC2 Type II SSAE 18 Reports). If the service organization uses another service organization (sub-service provider), the RC should consider the nature and materiality of the transactions and data processed by the sub-service organization and the contribution of the sub-service organization's processes and controls in the achievement of the Postal Service's control objectives. Resetting companies are expected to submit any request for changes to control objectives by December 31 of each year, which will be taken under consideration by the Postal Service for review and approval. The Postal Service will provide common control objectives to be covered by the SOC 1 Type II SSAE 18 by February 28 each year. As a result of the examination, the service auditor shall provide the RC and the Postal Service with an opinion on the design and operating effectiveness of the RC's internal controls related to the meter system and any other applications and technology infrastructure considered material to the services provided to the *Postal Service* by the RC. SOC1 and SOC2 examinations are to be conducted on no less than an annual basis, and are to be as of and for the 12 months ended June 30 of each year (except for new contracts for which the examination

period will be no less than the period from the contract date to the following June 30, unless otherwise agreed to by the Postal Service). The SOC1 and SOC2 examination reports are to be provided to the Postal Service by August 15 of each year. To the extent that internal control weaknesses are identified in a SOC report, the Postal Service requires prompt communication and remediation of such weaknesses and shall have the right to review working papers and engage in discussions about the work performed with the service auditor. The Postal Service requires that all remediation efforts (if applicable) are completed and reported by the RC prior to the Postal Service's fiscal year end (September 30). In addition, the RC will be responsible for performing an examination of their internal control environment related to the meter system and any other applications and technology infrastructure considered material to the services provided to the Postal Service by the RC, in particular, disclosing changes to internal controls for the period of July 1 to September 30. This examination should be documented and submitted to the Postal Service by October 14 of each year. The RC will be responsible for all costs related to the examinations conducted by the service auditor and the RC.

(j) *Inspection of records and facilities.* The RC must make its facilities that handle the operation of the computerized resetting system and all records about the operation of the system available for inspection by representatives of the Postal Service at all reasonable times. At its discretion, the Postal Service may continue to fund inspections as it has in the past, provided the costs are not associated with a particular security issue related to the RC's meter systems and supporting infrastructure.

* * * * *

■ 3. Amend § 501.16 by revising paragraph (d) and (f) to read as follows:

§ 501.16 PC postage payment methodology

* * * * *

(d) The provider must reimburse the Postal Service upon request for any returned checks or ACH debits for postage payments. The provider must, upon first becoming aware of a returned check or ACH debit, immediately lock the customer account to prevent resetting the account until the provider receives confirmation of payment for the returned item. The provider is required to charge the customer a returned item fee for returned checks and ACH debits of $30, as may be adjusted from time to time, and remit the fee plus the amount of the returned item to the Postal Service within ten (10) calendar days after the receipt of the invoice.

* * * * *

(f) Security and Revenue Protection. To receive Postal Service approval to continue to operate PC Postage systems, the provider must submit to a periodic examination and provide a SOC1 Type II Report of its PC Postage system and any other applications and technology infrastructure that may have a material impact on Postal Service revenues, as determined by the Postal Service.

Additionally, provider must submit to a periodic examination and provide a SOC2 Type II Report of its meter system data security, accuracy, processing integrity and data integrity for any applications, reports, and technology infrastructure that may have a material impact on the provider's reports, which the Postal Service relies upon. The examination shall be performed by a qualified, independent audit firm and shall be conducted in accordance with the Statements on Standards for Attestation Engagements (SSAEs) No. 18, Service Organizations, developed by the American Institute of Certified Public Accountants (AICPA), as amended or superseded. Expenses associated with such examination shall be incurred by the provider. The examination shall include testing of the operating effectiveness of relevant provider internal controls (SOC1 Type II SSAE 18 Report). If the service organization uses another service organization (sub-service provider), the provider should consider the nature and materiality of the transactions processed by the sub-service organization and the contribution of the sub-service organization's processes and controls in the achievement of the Postal Service's control objectives. The control objectives to be covered by the SOC 1 Type II SSAE 18 report are subject to Postal Service review and approval, and are to be provided to the Postal Service 30 days prior to the initiation of each examination period. Resetting companies are expected to submit any request for changes to control objectives by December 31 of each year, which will be taken under consideration by the Postal Service for review and approval. The Postal Service will provide common control objectives to be covered by the SOC 1 Type II SSAE 18 by February 28 each year. As a result of the examination, the service auditor shall provide the provider and the Postal Service with an opinion on the design and operating effectiveness of the provider's internal controls related to the meter system, and any other applications and technology infrastructure considered material to the services provided to the Postal Service by the RC. SOC1 and SOC2 examinations are to be conducted on no less than an annual basis, and are to be as of and for the 12 months ended June 30 of each year (except for new contracts for which the examination period will be no less than the period from the contract date to the following June 30, unless otherwise agreed to by the Postal Service). The SOC1 and SOC2 examination reports are to be provided to the Postal Service by August 15 of each year. To the extent that internal control weaknesses are identified in a SOC 1 Type II SSAE 18 report, the Postal Service requires prompt communication and remediation of such weaknesses and will review working papers and engage in discussions about the work performed with the service auditor. The Postal Service requires that all remediation efforts (if applicable) are completed and reported by the provider to the Postal Service's fiscal year end (September 30). In addition, the provider will be responsible for performing an examination of their internal control environment related to the meter system and any other applications and technology infrastructure considered material to the services provided to the Postal Service by the provider, in particular, disclosing changes to internal controls for the period of July 1 to September 30. This examination should be documented and submitted to the Postal Service by October 14 each year. The provider will be responsible for all costs related to the examinations conducted by the service auditor and the RC.

* * * * *

Brittany M. Johnson,

Attorney, Federal Compliance.

[FR Doc. 2019–21576 Filed 10–4–19; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, and 76

[EB Docket No. 19–214; FCC 19–86]

Procedural Streamlining of Administrative Hearings

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission proposes procedural changes to administrative hearings under the Communications Act of 1934,

as amended. The proposals would supplement the Commission's current administrative law judge referral process and promote more efficient resolution of hearings. The Commission seeks comment on proposals to codify and expand the use of written testimony and documentary evidence in lieu of live testimony and cross-examination. The Commission also seeks comment on proposals that would enable Commission staff to act as a case manager that would supervise development of the written hearing record when the Commission designates itself as the presiding officer at a hearing. Finally, the Commission seeks comment on a proposal to dispense with the preparation of an intermediate opinion whenever the record of a proceeding can be certified to the Commission for final decision.

DATES: Comments are due on or before November 6, 2019 and reply comments are due on or before November 21, 2019.

ADDRESSES: You may submit comments, identified by EB Docket No. 19–214, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs2/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Lisa Boehley of the Market Disputes Resolution Division, Enforcement Bureau, at *Lisa.Boehley@fcc.gov* or (202) 418–7395.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, FCC 19–86, EB Docket No. 19–214, adopted on September 3, 2019 and released on September 6, 2019. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, 445 12th Street SW, Room CY–A257, Washington, DC 20554, or online at *https://ecfsapi.fcc.gov/file/090628688258/FCC-19-86A1.pdf.* To request this document in accessible formats for people with disabilities (*e.g.,* Braille, large print, electronic files, audio format, etc.) or to request reasonable accommodations (*e.g.,* accessible format documents, sign language interpreters, CART, etc.), send an email to *fcc504@fcc.gov* or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

1. In the Notice of Proposed Rulemaking (*NPRM*), we seek comment on procedural changes that, if adopted, would streamline many administrative hearings under the Communications Act of 1934, as amended (Communications Act or Act). Currently, these hearings typically are conducted like trials in civil litigation and include, among other things, live testimony before an administrative law judge, cross-examination of witnesses, and an initial decision by the administrative law judge that is subject to review by the Commission. The Commission has observed that such trial-type hearings are costly and impose significant burdens and delays on both applicants and the agency that may not be necessary.

2. The procedures outlined here are designed to supplement the Commission's current administrative law judge referral process and promote more efficient resolution of hearings. If adopted, the proposals would (a) codify and expand the use of a process that would rely on written testimony and documentary evidence in lieu of live testimony and cross-examination; (b) enable Commission staff to act as a case manager that would supervise development of the written hearing record when the Commission designates itself as the presiding officer at a hearing; and (c) dispense with the preparation of an intermediate opinion whenever the record of a proceeding can be certified to the Commission for final decision. The proposed procedures would expedite the Commission's hearing processes consistent with the requirements of the Communications Act and the Administrative Procedure Act (APA) while ensuring transparency and procedural fairness.

3. Several provisions of the Communications Act require or permit the Commission to conduct an adjudicatory hearing to resolve a matter. These provisions generally do not identify particular procedures that the Commission must follow. For example,

- Section 309(e) requires the Commission, when a substantial and material fact is presented or when it is unable to make the public interest finding in section 309(a), to designate a license application for a ''full hearing'';
- Section 309(k)(3) requires a section 309(e) ''full hearing'' when the Commission is unable to make the requisite findings to grant a broadcast station renewal request;
- Section 312(c) requires the Commission to conduct a ''hearing'' before revoking a station license or construction permit pursuant to section 312(a);
- Section 316(a) and (b) provide that a ''hearing'' may be conducted before the Commission modifies a station license or construction permit;
- Section 9(c)(3) requires a ''hearing'' before the Commission may revoke an instrument of authorization for failure to pay a regulatory fee if ''the licensee's response [to a notice of intent to revoke] presents a substantial and material question of fact'';
- Section 204(a) authorizes the Commission to conduct a ''hearing'' concerning the lawfulness of a tariff;
- Sections 208 and 209 require the Commission to conduct a ''hearing'' to resolve a complaint that a common carrier engaged in unlawful conduct, and to award damages when appropriate;
- Section 214(b) grants a right ''to be heard'' to parties receiving Commission notice of a carrier request to construct, extend, acquire, operate, or discontinue service, and section 214(d) provides that the Commission may ''after a full opportunity for hearing'' require a carrier to provide itself with adequate facilities.

4. The Commission has applied a variety of processes in these hearings. Traditionally, the Commission has designated most disputes concerning spectrum license applicants, permittees, or licensees under sections 309 and 312 for resolution in hearings before an administrative law judge using procedures similar to the formal adjudication provisions of the APA. By rule, the administrative law judge may grant a motion for summary decision on a written record only if ''there is no genuine issue as to any material fact'' and ''a party is otherwise entitled to summary decision.'' In contrast, the Commission has traditionally resolved section 204 hearings on the lawfulness of tariffs on a written record, and hearing rights for common carriers under section 214 are comparatively limited. The Commission has also delegated authority to the Enforcement Bureau to conduct hearings on section 208 complaints, in which all issues are resolved on a written record.

5. Under certain circumstances, the Commission has taken steps to streamline its hearing processes even for spectrum licensing matters. In 1981, the Commission adopted a streamlined approach for evaluating competing initial cellular applications under section 309(e) on a written record. More recently, the Commission ruled that certain license renewal proceedings may be resolved in a written hearing proceeding administered by the Commission itself in lieu of an administrative law judge when there are no substantial issues of material fact or credibility issues. The Commission has likewise required parties to certain broadcast proceedings to submit all or a portion of their affirmative direct cases in writing where the presiding officer determines that doing so will contribute significantly to the disposition of the proceeding. The Commission also adopted expedited procedures under section 309(j)(5) permitting ''employees other than [administrative law judges] to preside at the taking of written evidence.'' Relatedly, the Commission has delegated authority to particular operating Bureaus to act on certain licensing and permitting applications when the relevant Bureau determines that the application raises no ''substantial and material questions of fact.''

6. To further streamline the Commission's hearing processes, we propose to codify and expand the Commission's use of hearings on a written record. The Commission's hearing rules provide that ''[a]ny hearing upon an application shall be a full hearing in which the applicant and all other parties in interest shall be permitted to participate.'' The Commission has on numerous occasions curtailed the use of oral testimony and cross examination in particular proceedings in order to expedite the hearing process. In our experience, disputes in Commission proceedings typically involve criticisms by one party of the evidence proffered by another party or the legal significance of that evidence, not actual conflicts in testimony between two witnesses concerning outcome determinative facts. Section 208 formal complaint proceedings amply demonstrate this point. We contemplate codifying and expanding the use of a written hearing process that can be used in most adjudicative proceedings, including those conducted by an administrative law judge. In particular, we propose to authorize the presiding officer to conduct a written hearing whenever factual disputes can be adequately resolved on a written record.

7. We propose that the Commission may, in any order designating a matter for hearing (designation order), require the administrative law judge or other presiding officer to conduct a hearing on a written record. We also propose that, in the absence of such a directive in a designation order, the presiding officer may conduct the hearing on a written record on her own initiative or on motion of a party. The presiding officer should include the date for filing such a motion in the scheduling order issued following release of the designation order. We seek comment on these proposals and on whether any additional procedural safeguards are warranted in this regard. We note that our current hearing rules allow parties to take depositions, which enable parties to examine witnesses in a live setting and may render live testimony unnecessary at a hearing.

8. We propose that parties in written hearing proceedings be required to file pleadings that include all evidence and arguments that support their respective positions. Consistent with the Commission's rules on summary decision and its formal complaint rules, such written submissions must be supported by evidence in the form of sworn statements based on personal knowledge and supporting documentation. The Commission, in its designation order, or the presiding officer will adopt a schedule for sequential filing of written evidentiary submissions. Enforcement Bureau staff will continue to represent the public interest in these proceedings and will have the opportunity, along with other interested parties, to file pleadings and submit evidence. We believe these procedures will expedite the resolution of hearing proceedings while safeguarding the rights of parties to a full and fair hearing. We seek comment on these proposals.

9. We also propose to require parties to demonstrate why oral argument may be necessary in a case. In our experience, oral argument does not materially aid in the resolution of the vast majority of cases, and routinely accommodating requests for oral argument unnecessarily prolongs the resolution of hearing proceedings.

10. Selection of a Presiding Officer. Each designation order will indicate whether the Commission itself, one or more Commissioners, or an administrative law judge will serve as the presiding officer. We tentatively conclude that the selection of a presiding officer should take into consideration who would ''most fairly and reasonably accommodate'' ''the proper dispatch of [the Commission's] business and the ends of justice'' in each case. To that end, we seek comment on if there are particular types of proceedings where it is or is not appropriate, on legal or policy grounds, for the Commission itself to serve as presiding officer. For example, if a case is likely to involve primarily interpretations of law or policy determinations, would the Commission itself be best suited to administer the hearing in such a case?

11. The APA provisions governing formal hearing proceedings generally identify only the agency, one or more agency heads, or one or more administrative law judges among those who may preside at formal hearings, but no such limitation applies to informal adjudications under the APA. Similarly, although section 5(c)(1) of the Communications Act limits delegations of authority to conduct hearings to individuals identified in 5 U.S.C. 556(b)(2) (members of the agency) and (b)(3) (administrative law judges), that limitation expressly applies only to hearings subject to APA formal hearing requirements. Accordingly, although we are not proposing any rule changes in this regard, we seek comment on whether there are other officials on the Commission's staff who may serve as the presiding officer in suitable circumstances. Would directing such individuals to administer hearing proceedings expedite our hearings process by making available additional neutral qualified personnel to conduct Commission hearings? We will address any proposed rule changes on this issue in a Further Notice of Proposed Rulemaking in this proceeding.

12. We also propose to direct the Chief of the Wireline Competition Bureau to exercise certain authority previously held by the Chief of the Common Carrier Bureau, the former's predecessor bureau, under section 214 of the Act. In particular, the Commission ''delegate[d] to the Chief, Common Carrier Bureau, authority to issue orders revoking a common carrier's operating authority pursuant to [s]ection 214 of the Act, and to issue orders to cease and desist such operations, in cases where the Chief Administrative Law Judge, or the Presiding Officer designated, has issued a certification order to the Commission pursuant to [s]ection 1.92(c) of our rules that the carrier has waived its opportunity for hearing under that section.'' We propose to direct the Chief of the Wireline Competition Bureau to issue such orders whenever the presiding officer assigned to a hearing proceeding determines that a common carrier has waived its opportunity for hearing. We seek comment on this proposal.

13. Selection of a Case Manager. The Commission's current hearing rules provide that ''[h]earings will be conducted by the Commission, by one or more commissioners, or by a law judge designated pursuant to section 11 of the [APA].'' We seek comment on directing designated Commission staff to perform specific case management functions when the Commission itself serves as the presiding officer in a hearing proceeding. A case manager could issue scheduling orders, rule on discovery motions and other interlocutory matters, administer the intake of evidence, hold conferences in order to settle or simplify the issues, and certify the record for decision by the Commission at the conclusion of a hearing. Under this proposal, a case manager's responsibilities may include one or more of the duties that are typically performed by the presiding officer, but a case manager would not have authority to resolve any new or novel issues or to issue orders on the merits resolving any issue designated for hearing in a case. We tentatively conclude that this proposal would significantly expedite our hearing processes when the Commission designates itself as the presiding officer. We seek comment on this tentative conclusion and on the relevance to this proposal, if any, of the Appointments Clause to the U.S. Constitution and the Supreme Court's decision in *Lucia* v. *SEC.*

14. We recognize that designated staff must demonstrate sufficient training and expertise to act as a case manager. We seek comment on the minimum training and qualifications, including adjudicatory and subject matter expertise, that individuals must possess to successfully perform this role. The Administrative Conference's ''best practice'' pertaining to presiding officer qualifications recommends that agencies ''use adjudicators—rather than agency heads, boards, or panels—to conduct hearings and provide initial decisions[.]'' Should this recommendation apply to Commission staff whose eligibility to act as a case manager is under consideration? We note that various staff within the Enforcement Bureau and the Commission's Office of General Counsel have extensive adjudicatory experience, and we therefore seek comment on whether we should direct particular staff within the Enforcement Bureau or Office of General Counsel to act as a case manager in hearing proceedings. We similarly seek comment on the qualifications of staff within the Commission's other bureaus to serve in this role.

15. The case manager in a hearing should be neutral. In formal adjudications, the APA formal hearing provisions prohibit agency staff from performing both prosecutorial and decisional activities. This ''separation of functions'' principle shields agency decisionmakers from off-record presentations by staff who have presented evidence or argument on behalf of or against a party to a proceeding and prohibits such staff from participating in the hearing decision. The separation of functions requirement in section 409(c)(1) of the Communications Act, which applies to both formal and informal adjudications, prevents a person who has participated in the presentation of a case at a hearing or upon review from making any additional presentation respecting such case to the presiding officer or to any authority within the Commission performing a review function, absent notice and opportunity for all parties to participate. The Administrative Conference recommends that agencies require internal separation of decisional and adversarial personnel in adjudications that are not subject to formal APA hearing requirements. In this context, an ''adversary'' refers to a staff member who took an active part in investigating, prosecuting, or advocating in the same case.

16. We propose to adopt the Administrative Conference's recommendation to ''prohibit staff who took an active part in investigating, prosecuting, or advocating in a case'' from serving as a case manager and from advising or assisting the case manager ''in that same case.'' Thus, we propose that staff who participated in identifying the specific issues designated for hearing; staff who take an active part in investigating, prosecuting, or advocating in a case; and staff who are expected to investigate and act upon petitions to deny (including administrative challenges thereto) may not serve as the case manager in that case. We seek comment on these proposals.

17. Unless otherwise designated, Commission hearings are ''restricted'' proceedings and thus ex parte presentations to or from Commission decision-making personnel are prohibited. ''Decision-making personnel'' include ''[a]ny member, officer, or employee of the Commission . . . who is or may reasonably be expected to be involved in formulating a decision, rule or order in a proceeding.'' Decision-making personnel also include ''[u]nseparated Bureau or Office staff . . . with respect to decisions, rules, and orders in which their Bureau or Office participates in enacting, preparing, or reviewing.'' We tentatively conclude that any Commission staff serving as a case manager in a case should be considered ''decision-making personnel'' for purposes of our ex parte rules. Finally, we tentatively conclude that the existing definition of ''ex parte presentation'' in section 1.1202 of the Commission's rules would continue to apply. We seek comment on these tentative conclusions and on whether other or additional measures are needed to ensure the impartiality of staff serving as the case manager.

18. Dispensing with Initial Decision When Appropriate. Section 409(a) of the Communications Act generally requires that the presiding officer prepare an initial, tentative, or recommended decision. With limited exceptions, the Commission's rules likewise state that ''the presiding officer shall prepare an initial (or recommended) decision'' at the close of a hearing. Upon agreement of the parties or where the Commission finds ''that due and timely execution of its functions imperatively and unavoidably so requires,'' however, ''the Commission may direct that the record in a pending proceeding be certified to it for initial or final decision.''

19. We seek comment on whether the Commission should forego initial decisions whenever it serves as the presiding officer at a hearing, including cases in which the Commission directs that the record of the proceeding be certified to it for decision. Initial decisions have no apparent utility when the Commission is the presiding officer.

Dispensing with initial decisions under these circumstances would greatly promote efficient resolution of disputes. We seek comment on this proposal. Although the APA's formal hearing requirements do not apply here, we note that they authorize agencies to require an administrative law judge to certify the record for decision by the agency without an initial decision. We seek comment on whether a case manager could likewise certify the hearing record for decision directly by the Commission.

20. Evidentiary Rules. The Commission's current hearing rules provide that the Federal Rules of Evidence (28 U.S.C. Rules 101–1103) govern Commission hearings, but that these rules may be ''relaxed if the ends of justice will be better served by so doing.'' In practice, however, the Federal Rules of Evidence are not necessarily applied and instead serve merely as guidelines in determining the admissibility of evidence. This lack of clarity as to the relevant evidentiary standard has the potential to cause confusion for parties and to lead to evidentiary disputes between those who expect the Federal Rules of Evidence to apply and those who seek to avoid their application in a particular case.

21. We propose to amend this rule and adopt the more permissive evidentiary standard in the formal APA hearing requirements, which states, in relevant part, that ''the agency as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.'' We seek comment on this proposal and on the conclusion of the Asimow Report that the more lenient standard in 5 U.S.C. 556(d) will result in fewer time-consuming disputes over ''esoteric rules of evidence, such as the many exceptions to the hearsay rule,'' and will be simpler for self-represented parties to navigate.

22. Proposed Rule Changes. Several rule changes are proposed in this proceeding. Specifically, we propose to add sections 1.370–1.377 to our Part 1 hearing rules to establish procedures for hearings to be resolved on a written record. We otherwise generally retain the current Part 0 and Part 1 hearing related rules with the proposed modifications. We seek comment on these proposed rules and on any other changes necessary to conform our rules to these proposals.

23. Related Issues. Finally, we seek comment on any other proposed rule changes that would streamline or expedite the Commission's hearing processes. We may address any such proposals in a Further Notice of Proposed Rulemaking in this proceeding.

24. Legal Authority. The Commission has broad authority ''[to] conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice.'' Congress ''left largely to [the Commission's] judgment the determination of the manner of conducting its business which would most fairly and reasonably accommodate'' the ends of justice.

25. In *PBGC* v. *LTV Corp.,* the Supreme Court identified three potential sources of procedural requirements for agency hearings—the APA, the agency's governing statute, and the Due Process Clause. ''[C]ourts are not free to impose upon agencies specific procedural requirements that have no basis in'' those sources.

26. The APA prescribes procedural standards governing formal and informal adjudications before federal agencies. The APA provisions governing formal adjudications appear in sections 554, 556, and 557 of title 5, 74 which require a formal hearing process that includes elements of a judicial trial in a civil action. Informal adjudication commonly refers to procedures for conducting cases when formal adjudication is not required. The APA prescribes minimum procedural requirements for informal adjudications. Section 555 of title 5 requires only that an agency afford participants the right to appear with counsel, the right to procure copies or transcripts of any evidence they have provided, and prompt notice of, and grounds for, the agency's denial of an application or petition. Section 558(c) includes certain additional procedures specific to proceedings involving licenses or other agency authorizations. That section generally requires an agency, prior to instituting proceedings to suspend or revoke a license, to provide the licensee with written notice of the facts that may warrant the agency's contemplated action and an opportunity to demonstrate compliance with all lawful requirements.

27. The APA, by itself, does not establish when agencies must follow the formal hearing procedures in Sections 554, 556, and 557. Instead, agencies must apply the APA in conjunction with the relevant enabling statute and use formal hearing procedures in ''every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing.'' Where an agency's enabling statute does not expressly require an ''on the record'' hearing and, instead, calls simply for a ''hearing,'' a ''full hearing,'' or uses similar terminology, the statute does not trigger the APA formal adjudication procedures absent clear evidence of congressional intent to impose the full panoply of trial type procedures of a formal hearing.

28. No express ''on the record'' language appears in the Communications Act's hearing provisions that would trigger the APA formal adjudication requirements. In addition, nothing in the text of the Act unambiguously requires trial-type hearings in all such proceedings. When Congress intended to require the Commission to conduct formal adjudication under the APA, it said so explicitly—section 503 of the Communications Act authorizes the Commission to impose a forfeiture penalty on a person after ''a hearing before the Commission or an administrative law judge thereof in accordance with section 554 of'' the APA. Consequently, we tentatively conclude that Commission hearings generally are subject only to the APA's informal adjudication requirements.

29. We also believe that the streamlined procedures proposed in this *NPRM* comport with any constitutional due process requirements that may apply, as articulated by the Supreme Court in *Mathews* v. *Eldridge*. The Fifth Amendment to the United States Constitution provides that ''No person shall . . . be deprived of life, liberty, or property, without due process of law.'' The essential elements of due process are notice and an opportunity to be heard when a governmental decision places an individual's ''liberty'' or ''property'' interests in jeopardy. The government must give a party an opportunity to be heard at a meaningful time and in a meaningful manner before depriving the party of a protected interest. In *Mathews* v. *Eldridge,* the Supreme Court held that:

[I]dentification of the specific dictates of due process generally requires consideration of three distinct factors: [1] The private interest that will be affected by the official action; [2] the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional . . . procedural safeguards; and [3] the Government's interest, including . . . the fiscal and administrative burdens that the additional . . . procedural requirement would entail.

30. Courts have applied the *Mathews* v. *Eldridge* balancing test to determine whether, in the absence of a statutory requirement to conduct a formal ''on the record'' APA hearing, due process requires a trial-type hearing. In

Chemical Waste Management, the D.C. Circuit held that the Environmental Protection Agency was not required to conduct a trial-type hearing before issuing a ''corrective action order'' because ''formal procedures do not promise a sufficient lowering of the risk of error to justify their significant expense to the Government.'' In *California ex rel. Lockyer* v. *FERC,* the Ninth Circuit upheld the Federal Energy Regulatory Commission's approval of a utility's reorganization in an informal hearing ''[i]n light of the private interests affected, the small risk of erroneous deprivation through the procedures used, and the government's strong interest in expedient decision making.'' And in *Blumenthal* v. *FERC,* the D.C. Circuit upheld FERC's approval of a utility's executive compensation plan without a trial-type hearing, noting that ''[t]his Court has never held that an in-person evidentiary hearing is constitutionally required whenever FERC makes decisions. Indeed, we have frequently suggested the opposite.''

31. In other recent opinions, courts have found that agencies may resolve factual disputes on a written record. In a series of cases involving FERC, the D.C. Circuit has consistently held that ''[e]ven when there are disputed factual issues, FERC does not need to conduct an evidentiary hearing if it can adequately resolve the issues on a written record.'' We therefore tentatively conclude that the Commission need not conduct an oral hearing if it can adequately resolve factual disputes on a written record.

32. Although the D.C. Circuit has upheld an agency's resolution of an issue of intent on a written record, the court has suggested in dicta in other cases that it may be inappropriate for an agency to resolve issues of intent or motive on a written record in certain circumstances. We seek comment on what those circumstances may be. For example, we seek comment on when the Commission cannot, consistent with the *Mathews* v. *Eldridge* balancing test, decide a motive, intent, or credibility issue on a written record, bearing in mind that the existence of such an issue is but one factor to be considered in applying the due process balancing test. We note that when an agency reviews an administrative law judge's initial decision, the agency is not bound by the judge's findings of fact, and may reject the judge's credibility findings as long as the agency's decision is supported by substantial evidence. What is the additional benefit of a trial-type hearing when the Commission ultimately reviews initial decisions on a written record and can overrule an administrative law judge's credibility determinations when evidence in the written record supports the Commission's decision? We seek comment on whether that benefit, if any, outweighs the government's legitimate interests in expediting resolution of proceedings and avoiding the expense of a trial-type hearing.

33. We emphasize that when we designate a matter for hearing on a written record, we intend to give parties a ''full'' hearing, with ample notice of the issues under consideration, an opportunity to present all evidence and arguments that support the parties' respective positions, and an opportunity to confront and rebut opposing evidence and arguments. To that end, we seek comment on the Administrative Conference's recommended ''best practices'' for agency hearings that are not subject to APA formal hearing requirements (referred to herein as informal hearings), and whether and how to incorporate those recommendations in our rules.

34. Initial Regulatory Flexibility Act Certification. As required by the Regulatory Flexibility Act, see 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Certification reflecting its analysis that there will be no significant economic impact on small entities by the implementation of the policies and rules addressed in this *NPRM.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

35. In this *NPRM,* the Commission seeks comment on proposals to expedite and streamline the Commission's hearing processes. The proposed rule changes stem from longstanding criticisms of the Commission's current trial-type hearings as costly, burdensome, and, in many cases, unnecessary. The proposals upon which the *NPRM* seeks comment are designed to supplement the Commission's current formal hearing processes by allowing the Commission to select the personnel and procedures that are best suited to the issues raised in a particular case and that will achieve the purposes of that hearing without undue cost or delay. These procedures, if adopted, would establish an alternative path for resolving hearing proceedings in appropriate cases.

36. The Commission estimates that the rule changes proposed in this *NPRM* would reduce the time and attendant costs associated with hearing proceedings for the Commission and for applicants, petitioners, and other parties. In particular, the *NPRM* proposes to (1) codify and expand the use of a ''written hearing'' process that would rely on written testimony and documentary evidence in lieu of live testimony and cross-examination unless the designated presiding officer determines that oral testimony is needed to resolve any issues; (2) direct designated Commission staff to act as a case manager that would supervise the development of the written hearing record when the Commission designates itself as the presiding officer in a hearing proceeding; and (3) dispense with the preparation of an intermediate opinion whenever the record of a proceeding can be certified to the Commission for final decision. The *NPRM* tentatively concludes that the proposed procedures will expedite the Commission's hearing processes while ensuring appropriate standards of transparency and procedural fairness. It seeks comment on various aspect of these proposals and on any alternative approaches.

37. The Commission believes that the proposals on which it seeks comment in this *NPRM* would reduce costs and burdens currently shouldered by parties to hearing proceedings in certain cases, including small entities. Because only a small percentage of matters before the Commission necessitate a hearing, we anticipate that the number of small entities impacted would not be substantial for RFA purposes. In addition, the proposed modifications to the hearing rules in this *NPRM* do not propose substantive new responsibilities for regulated entities or for potential parties to Commission hearings. Therefore, we certify that the proposals in this *NPRM*, if adopted, will not have a significant economic impact on a substantial number of small entities.

38. The Commission will send a copy of the *NPRM,* including a copy of this Initial Regulatory Flexibility Certification, to the Chief Counsel for

Advocacy of the Small Business Administration. This initial certification will also be published in the **Federal Register**.

39. Paperwork Reduction Act. This document does not contain any proposed new information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

40. Ex Parte Rules. This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with Section 1.1206(b) of the Commission's rules. In proceedings governed by Section 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable.pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

41. *Ordering Clauses.* Accordingly, *it is ordered* that, pursuant to the authority found in sections 1, 4(i), 4(j), 5, 9, 214, 303, 309, 312, 316, and 409 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 155, 159, 214, 303, 309, 312, 316, and 409, this Notice of Proposed Rulemaking *is adopted.*

42. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Act Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Parts 0, 1, and 76

Administrative practice and procedure.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 0, 1, and 76 as follows:

PART 0—COMMISSION ORGANIZATION

■ 1. The authority citation for part 0 is revised to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 409, unless otherwise noted.

Subpart A—[Amended]

■ 2. Amend Subpart A by revising the authority citation to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 409, unless otherwise noted.

■ 3. Amend § 0.5 by revising paragraph (c) to read as follows:

§ 0.5 General description of Commission organization and operations.

* * * * *

(c) *Delegations of authority to the staff.* Pursuant to section 5(c) of the Communications Act, the Commission has delegated authority to its staff to act on matters which are minor or routine or settled in nature and those in which immediate action may be necessary. See subpart B of this part. Actions taken under delegated authority are subject to review by the Commission, on its own motion or on an application for review filed by a person aggrieved by the action. Except for the possibility of review, actions taken under delegated authority have the same force and effect as actions taken by the Commission. The delegation of authority to a staff officer, however, does not mean that the staff officer will exercise that authority in all matters subject to the delegation. The staff is at liberty to refer any matter at any stage to the Commission for action, upon concluding that it involves matters warranting the Commission's consideration, and the Commission may instruct the staff to do so.

* * * * *

■ 4. Amend § 0.91 by adding paragraph (q) to read as follows:

§ 0.91 Functions of the Bureau.

* * * * *

(q) Issue orders revoking a common carrier's operating authority pursuant to section 214 of the Act, and issue orders to cease and desist such operations, in cases where the presiding officer has issued a certification order to the Commission pursuant to § 1.92(c) of our rules that the carrier has waived its opportunity for hearing under that section.

* * * * *

■ 5. Amend § 0.111 by revising paragraphs (a)(18) and (b) to read as follows:

§ 0.111 Functions of the Bureau.

(a) * * *

(18) Issue or draft orders taking or recommending appropriate action in response to complaints or investigations, including, but not limited to, admonishments, damage awards where authorized by law or other affirmative relief, notices of violation, notices of apparent liability and related orders, notices of opportunity for hearing regarding a potential forfeiture, hearing designation orders, orders designating licenses or other authorizations for a revocation hearing and consent decrees. Issue or draft appropriate orders after a hearing proceeding has been terminated by the presiding officer on the basis of waiver. Issue or draft appropriate interlocutory orders and take or recommend appropriate action in the exercise of its responsibilities.

* * * * *

(b) Serve as trial staff in hearing proceedings conducted pursuant to § 1.201(a) regarding applications, revocation, forfeitures and other matters designated for hearing.

* * * * *

■ 6. Revise § 0.151 to read as follows:

§ 0.151 Functions of the Office.

The Office of Administrative Law Judges consists of as many Administrative Law Judges qualified and appointed pursuant to the

requirements of 5 U.S.C. 3105 as the Commission may find necessary. It is responsible for hearing and conducting adjudicatory cases designated for hearing other than those designated to be heard by the Commission en banc, or by one or more commissioners. The Office of Administrative Law Judges is also responsible for conducting such other hearing proceedings as the Commission may assign.

Subpart B—[Amended]

■ 7. Amend Subpart B by revising the authority citation to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 409.

■ 8. Amend § 0.201 by revising paragraph (a)(2) and removing the Note to paragraph (a)(2) as follows:

§ 0.201 General provisions.

(a) * * *

(2) *Delegations to rule on interlocutory matters in hearing proceedings.* Delegations in this category are made to any person, other than the Commission, designated to serve as the presiding officer in a hearing proceeding pursuant to § 1.241.

* * * * *

■ 9. Revise § 0.341 to read as follows:

§ 0.341 Authority of Administrative Law Judges and other presiding officers designated under § 1.241.

(a) After a presiding officer (other than the Commission) has been designated to conduct a hearing proceeding, and until he or she has issued an initial decision or certified the record to the Commission for decision, or the proceeding has been transferred to another presiding officer, all motions, petitions and other matters that may arise during the proceeding shall be acted upon by such presiding officer, except those which are to be acted upon by the Commission. See § 1.291(a)(1) of this chapter.

(b) Any question which would be acted upon by the presiding officer if it were raised by the parties to the proceeding may be raised and acted upon by the presiding officer on his or her own motion.

(c) Any question which would be acted upon by the presiding officer (other than the Commission) may be certified to the Commission on the presiding officer's own motion.

(d) Except for actions taken during the course of a hearing and upon the record thereof, actions taken by a presiding officer pursuant to the provisions of this section shall be recorded in writing and filed in the official record of the proceeding.

(e) The presiding officer may waive any rule governing the conduct of Commission hearings upon motion or upon the presiding officer's own motion for good cause, subject to the provisions of the Administrative Procedure Act and the Communications Act of 1934, as amended.

(f) The presiding officer may issue such orders and conduct such proceedings as will best conduce to the proper dispatch of business and the ends of justice.

(g)(1) For program carriage complaints filed pursuant to § 76.1302 of this chapter that the Chief, Media Bureau refers to a presiding officer for an initial decision, the presiding officer shall release an initial decision in compliance with one of the following deadlines:

(i) 240 calendar days after a party informs the presiding officer that it elects not to pursue alternative dispute resolution as set forth in § 76.7(g)(2) of this chapter; or

(ii) If the parties have mutually elected to pursue alternative dispute resolution pursuant to § 76.7(g)(2) of this chapter, within 240 calendar days after the parties inform the presiding officer that they have failed to resolve their dispute through alternative dispute resolution.

(2) The presiding officer may toll these deadlines under the following circumstances:

(i) If the complainant and defendant jointly request that the presiding officer toll these deadlines in order to pursue settlement discussions or alternative dispute resolution or for any other reason that the complainant and defendant mutually agree justifies tolling; or

(ii) If complying with the deadline would violate the due process rights of a party or would be inconsistent with fundamental fairness; or

(iii) In extraordinary situations, due to a lack of adjudicatory resources available at the time.

■ 10. Revise § 0.347 to read as follows:

§ 0.347 Record of actions taken.

The record of actions taken by a presiding officer, including initial and recommended decisions and actions taken pursuant to § 0.341, is available through the Commission's Electronic Comment Filing System (ECFS). ECFS serves as the repository for records in the Commission's docketed proceedings from 1992 to the present. The public may use ECFS to retrieve all such records, as well as selected pre-1992 documents. The Office of the Secretary maintains copies of documents that include nonpublic information.

§§ 0.351 and 0.357 [Removed and reserved]

■ 11. Remove and reserve §§ 0.351 and 0.357.

PART 1—PRACTICE AND PROCEDURE

■ 12. The authority citation for part 1 is revised to read as follows:

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note, unless otherwise noted.

■ 13. Amend § 1.21 by revising paragraph (d) to read as follows:

§ 1.21 Parties.

* * * * *

(d) Except as otherwise expressly provided in this chapter, a duly authorized corporate officer or employee may act for the corporation in any matter which has not been designated for hearing and, in the discretion of the presiding officer, may appear and be heard on behalf of the corporation in a hearing proceeding.

* * * * *

■ 14. Amend § 1.49 by revising paragraphs (f)(1)(vii) and (viii), and adding paragraph (f)(1)(ix) to read as follows:

§ 1.49 Specifications as to pleadings and documents.

* * * * *

(f)(1) * * *

(vii) Domestic Section 214 discontinuance applications pursuant to §§ 63.63 and/or 63.71 of this chapter;

(viii) Notices of network change and associated certifications pursuant to § 51.325 *et seq.* of this chapter; and

(ix) Hearing proceedings under §§ 1.201 through 1.377.

* * * * *

■ 15. Amend § 1.51 by revising paragraph (a) to read as follows:

§ 1.51 Number of copies of pleadings, briefs, and other papers.

(a) In hearing proceedings, all pleadings, letters, documents, or other written submissions, shall be filed using the Commission's Electronic Comment Filing System, excluding confidential material as set forth in § 1.314 of these rules. An original and one copy of each written submission that includes confidential material shall be filed, along with an additional copy for each additional presiding officer, if more than one. Additional courtesy copies of electronically filed submissions shall be emailed as directed by the Commission.

* * * * *

■ 16. Amend § 1.80 by revising the introductory text of paragraph (g) and paragraphs (g)(1) and (3) to read as follows:

§ 1.80 Forfeiture proceedings.

* * * * *

(g) *Notice of opportunity for hearing.* The procedures set out in this paragraph apply only when a formal hearing under section 503(b)(3)(A) of the Communications Act is being held to determine whether to assess a forfeiture penalty.

(1) Before imposing a forfeiture penalty, the Commission may, in its discretion, issue a notice of opportunity for hearing. The formal hearing proceeding shall be conducted by an administrative law judge under procedures set out in subpart B of this part, including procedures for appeal and review of initial decisions. A final Commission order assessing a forfeiture under the provisions of this paragraph is subject to judicial review under section 402(a) of the Communications Act.

* * * * *

(3) Where the possible assessment of a forfeiture is an issue in a hearing proceeding to determine whether a pending application should be granted, and the application is dismissed pursuant to a settlement agreement or otherwise, and the presiding judge has not made a determination on the forfeiture issue, the presiding judge shall forward the order of dismissal to the attention of the full Commission. Within the time provided by § 1.117, the Commission may, on its own motion, proceed with a determination of whether a forfeiture against the applicant is warranted. If the Commission so proceeds, it will provide the applicant with a reasonable opportunity to respond to the forfeiture issue (see paragraph (f)(3) of this section) and make a determination under the procedures outlined in paragraph (f) of this section.

* * * * *

■ 17. Revise § 1.85 to read as follows:

§ 1.85 Suspension of operator licenses.

Whenever grounds exist for suspension of an operator license, as provided in § 303(m) of the Communications Act, the Chief of the Wireless Telecommunications Bureau, with respect to amateur and commercial radio operator licenses, may issue an order suspending the operator license. No order of suspension of any operator's license shall take effect until 15 days' notice in writing of the cause for the proposed suspension has been given to the operator licensee, who may make written application to the Commission at any time within the said 15 days for a hearing upon such order. The notice to the operator licensee shall not be effective until actually received by the operator licensee, and from that time the operator licensee shall have 15 days in which to mail the said application. In the event that physical conditions prevent mailing of the application before the expiration of the 15-day period, the application shall then be mailed as soon as possible thereafter, accompanied by a satisfactory explanation of the delay. Upon receipt by the Commission of such application for hearing, said order of suspension shall be designated for hearing and said suspension shall be held in abeyance until the conclusion of the hearing proceeding. If the license is ordered suspended, the operator shall send his, her, or its operator license to the Mobility Division, Wireless Telecommunications Bureau, in Washington, DC, on or before the effective date of the order, or, if the effective date has passed at the time notice is received, the license shall be sent to the Commission forthwith.

■ 18. Amend § 1.87 by revising paragraphs (e) and (f), and the introductory text of paragraph (g) to read as follows:

§ 1.87 Modification of license or construction permit on motion of the Commission.

* * * * *

(e) In any case where a hearing proceeding is conducted pursuant to the provisions of this section, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission except that, with respect to any issue that pertains to the question of whether the proposed action would modify the license or permit of a person filing a protest pursuant to paragraph (c) of this section, such burdens shall be as described by the Commission.

(f) In order to utilize the right to a hearing and the opportunity to give evidence upon the issues specified in any order designating a matter for hearing, any licensee, or permittee, itself or by counsel, shall, within the period of time as may be specified in that order, file with the Commission a written appearance stating that it will present evidence on the matters specified in the order and, if required, appear before the presiding officer at a date and time to be determined.

(g) The right to file a protest or the right to a hearing proceeding shall, unless good cause is shown in a petition to be filed not later than 5 days before the lapse of time specified in paragraph (a) or (f) of this section, be deemed waived:

* * * * *

■ 19. Amend § 1.91 by revising paragraphs (b), (c), and (d) to read as follows:

§ 1.91 Revocation and/or cease and desist proceedings; hearings.

* * * * *

(b) An order to show cause why an order of revocation and/or a cease and desist order should not be issued will designate for hearing the matters with respect to which the Commission is inquiring and will call upon the person to whom it is directed (the respondent) to file with the Commission a written appearance stating that the respondent will present evidence upon the matters specified in the order to show cause and, if required, appear before a presiding officer at a time and place to be determined, but no earlier than thirty days after the receipt of such order. However, if safety of life or property is involved, the order to show cause may specify a deadline of less than thirty days from the receipt of such order.

(c) To avail themselves of such opportunity for a hearing, respondents, personally or by counsel, shall file with the Commission, within twenty days of the mailing of the order or such shorter period as may be specified therein, a written appearance stating that they will present evidence on the matters specified in the order and, if required, appear before the presiding officer at a time and place to be determined. The presiding officer in his or her discretion may accept a late-filed appearance. However, a written appearance tendered after the specified time has expired will not be accepted unless accompanied by a petition stating with particularity the facts and reasons relied on to justify such late filing. Such petition for acceptance of a late-filed appearance will be granted only if the presiding officer determines that the facts and reasons stated therein constitute good cause for failure to file on time.

(d) Hearing proceedings on the matters specified in such orders to show cause shall accord with the practice and procedure prescribed in this subpart and subpart B of this part, with the following exceptions: (1) In all such revocation and/or cease and desist hearings, the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission; and (2) the Commission may specify in a show cause order, when the circumstances of the proceeding require expedition, a time less than that prescribed in §§ 1.276 and 1.277 within which the initial decision in the proceeding shall become effective, exceptions to such initial decision must be filed, parties must file

requests for oral argument, and parties must file notice of intention to participate in oral argument.

* * * * *

■ 20. Amend § 1.92 by revising paragraphs (a) and (c) to read as follows:

§ 1.92 Revocation and/or cease and desist proceedings; after waiver of hearing.

(a) After the issuance of an order to show cause, pursuant to § 1.91, designating a matter for hearing, the occurrence of any one of the following events or circumstances will constitute a waiver of such hearing and the proceeding thereafter will be conducted in accordance with the provisions of this section.

(1) The respondent fails to file a timely written appearance as prescribed in § 1.91(c) indicating that the respondent will present evidence on the matters specified in the order and, if required by the order, that the respondent will appear before the presiding officer.

(2) The respondent, having filed a timely written appearance as prescribed in § 1.91(c), fails in fact to present evidence on the matters specified in the order or appear before the presiding officer in person or by counsel at the time and place duly scheduled.

(3) The respondent files with the Commission, within the time specified for a written appearance in § 1.91(c), a written statement expressly waiving his or her rights to a hearing.

* * * * *

(c) Whenever a hearing is waived by the occurrence of any of the events or circumstances listed in paragraph (a) of this section, the presiding officer shall, at the earliest practicable date, issue an order reciting the events or circumstances constituting a waiver of hearing and terminating the hearing proceeding. A presiding officer other than the Commission also shall certify the case to the Commission. Such order shall be served upon the respondent.

* * * * *

■ 21. Amend § 1.93 by revising paragraph (a) to read as follows:

§ 1.93 Consent orders.

(a) As used in this subpart, a ''consent order'' is a formal decree accepting an agreement between a party to an adjudicatory hearing proceeding held to determine whether that party has violated statutes or Commission rules or policies and the appropriate operating Bureau, with regard to such party's future compliance with such statutes, rules or policies, and disposing of all issues on which the proceeding was designated for hearing. The order is issued by the officer designated to preside at the hearing proceeding.

* * * * *

■ 22. Amend § 1.94 by revising paragraphs (d) and (g) to read as follows:

§ 1.94 Consent order procedures.

* * * * *

(d) If agreement is reached, it shall be submitted to the presiding officer, who shall either sign the order, reject the agreement, or suggest to the parties that negotiations continue on such portion of the agreement as the presiding officer considers unsatisfactory or on matters not reached in the agreement. If the presiding officer signs the consent order, the record shall be closed. If the presiding officer rejects the agreement, the hearing proceeding shall continue. If the presiding officer suggests further negotiations and the parties agree to resume negotiating, the presiding officer may, in his or her discretion, decide whether to hold the hearing proceeding in abeyance pending the negotiations.

* * * * *

(g) Consent orders, pleadings relating thereto, and Commission orders with respect thereto shall be served on parties to the proceeding. Public notice will be given of orders issued by the Commission or by the presiding officer. Negotiating papers constitute work product, are available to parties participating in negotiations, but are not routinely available for public inspection.

* * * * *

■ 23. Amend § 1.104 by revising paragraph (a) to read as follows:

§ 1.104 Preserving the right of review; deferred consideration of application for review.

(a) The provisions of this section apply to all final actions taken pursuant to delegated authority, including final actions taken by members of the Commission's staff on nonhearing matters. They do not apply to interlocutory actions of a presiding officer in hearing proceedings, or to orders designating a matter for hearing issued under delegated authority. See §§ 1.106(a) and 1.115(e).

* * * * *

■ 24. Amend § 1.115 by removing paragraphs (e)(1) and (e)(2), redesignating paragraph (e)(3) as paragraph (e)(1) and paragraph (e)(4) as paragraph (e)(2), and revising newly redesignated paragraph (e)(1) to read as follows:

§ 1.115 Application for review of action taken pursuant to delegated authority.

* * * * *

(e)(1) Applications for review of an order designating a matter for hearing that was issued under delegated authority shall be deferred until exceptions to the initial decision in the case are filed, unless the presiding officer certifies such an application for review to the Commission. A matter shall be certified to the Commission if the presiding officer determines that the matter involves a controlling question of law as to which there is substantial ground for difference of opinion and that immediate consideration of the question would materially expedite the ultimate resolution of the litigation. A request to certify a matter to the Commission shall be filed with the presiding officer within 5 days after the designation order is released. A ruling refusing to certify a matter to the Commission is not appealable. Any application for review authorized by the presiding officer shall be filed within 5 days after the order certifying the matter to the Commission is released or such a ruling is made. Oppositions shall be filed within 5 days after the application for review is filed. Replies to oppositions shall be filed only if they are requested by the Commission. Replies (if allowed) shall be filed within 5 days after they are requested. The Commission may dismiss, without stating reasons, an application for review that has been certified, and direct that the objections to the order designating the matter for hearing be deferred and raised when exceptions in the initial decision in the case are filed.

* * * * *

■ 25. Amend § 1.201 by redesignating the Note as Note 2 to § 1.201 and adding Note 1 to § 1.201 and revising the newly redesignating Note 2 to § 1.201 to read as follows:

§ 1.201 Scope.

* * * * *

Note 1 to § 1.201: For special provisions relating to hearing proceedings under this subpart that the Commission determines shall be conducted and resolved on a written record, see §§ 1.370–1.377.

Note 2 to § 1.201: For special provisions relating to AM broadcast station applications involving other North American countries see § 73.23.

■ 26. Revise § 1.202 to read as follows:

§ 1.202 Official reporter; transcript.

The Commission will designate an official reporter for the recording and transcribing of hearing proceedings as necessary. Transcripts will be transmitted to the Secretary for inclusion in the Commission's Electronic Comment Filing System.

■ 27. Revise § 1.203 and the authority citation to read as follows:

§ 1.203 The record.

The evidence submitted by the parties, together with all papers and requests filed in the proceeding and any transcripts, shall constitute the exclusive record for decision. Where any decision rests on official notice of a material fact not appearing in the record, any party shall on timely request be afforded an opportunity to show the contrary. (5 U.S.C. 556; 47 U.S.C. 154, 159, 208, 209, 214, 309, 312, 316, and 409)

■ 28. Revise § 1.209 to read as follows:

§ 1.209 Identification of responsible officer in caption to pleading.

■ 29. Each pleading filed in a hearing proceeding shall indicate in its caption whether it is to be acted upon by the Commission or, if the Commission is not the presiding officer, by the presiding officer. Unless it is to be acted upon by the Commission, the presiding officer shall be identified by name.

■ 30. Add § 1.210 to Subpart B to read as follows:

Subpart B—Hearing Proceedings

§ 1.210 Electronic filing.

All pleadings filed in a hearing proceeding, as well as all letters, documents, or other written submissions, shall be filed using the Commission's Electronic Comment Filing System, excluding confidential material as set forth in § 1.314 of these rules. A courtesy copy of all submissions shall be contemporaneously provided to the presiding officer via electronic mail.

■ 31. Amend § 1.221 by revising paragraphs (b) through (e), removing paragraphs (f) and (g), revising and redesignating paragraph (h) as paragraph (f), and revising the authority citation to read as follows:

§ 1.221 Notice of hearing; appearances.

* * * * *

(b) The order designating an application for hearing shall be mailed to the applicant and the order, or a summary thereof, shall be published in the **Federal Register**. Reasonable notice of hearing will be given to the parties in all proceedings.

(c) In order to avail themselves of the opportunity to be heard, applicants or their attorney shall file, within 20 days of the mailing of the order designating a matter for hearing, a written appearance stating that the applicant will present evidence on the matters specified in the order and, if required by the order, appear before the presiding officer at a date and time to be determined. Where an applicant fails to file such a written appearance within the time specified, or has not filed prior to the expiration of that time a petition to dismiss without prejudice, or a petition to accept, for good cause shown, such written appearance beyond expiration of said 20 days, the application will be dismissed with prejudice for failure to prosecute.

(d) The Commission will on its own motion name as parties to the hearing proceeding any person found to be a party in interest.

(e) In order to avail themselves of the opportunity to be heard, any persons named as parties pursuant to paragraph (d) of this section shall, within 20 days of the mailing of the order designating them as parties to a hearing proceeding, file personally or by attorney a written appearance that they will present evidence on the matters specified in the order and, if required by the order, appear before the presiding officer at a date and time to be determined. Any persons so named who fail to file this written appearance within the time specified, shall, unless good cause for such failure is shown, forfeit their hearing rights.

(f)(1) For program carriage complaints filed pursuant to § 76.1302 of this chapter that the Chief, Media Bureau refers to a presiding officer, each party, in person or by attorney, shall file a written appearance within five calendar days after the party informs the presiding officer that it elects not to pursue alternative dispute resolution pursuant to § 76.7(g)(2) of this chapter or, if the parties have mutually elected to pursue alternative dispute resolution pursuant to § 76.7(g)(2) of this chapter, within five calendar days after the parties inform the presiding officer that they have failed to resolve their dispute through alternative dispute resolution. The written appearance shall state that the party will appear for hearing and present evidence on the issues specified in the hearing designation order.

(2) If the complainant fails to file a written appearance by this deadline, or fails to file prior to the deadline either a petition to dismiss the proceeding without prejudice or a petition to accept, for good cause shown, a written appearance beyond such deadline, the presiding officer shall dismiss the complaint with prejudice for failure to prosecute.

(3) If the defendant fails to file a written appearance by this deadline, or fails to file prior to this deadline a petition to accept, for good cause shown, a written appearance beyond such deadline, its opportunity to present evidence at hearing will be deemed to have been waived. If the hearing is so waived, the presiding officer shall expeditiously terminate the proceeding and certify to the Commission the complaint for resolution based on the existing record. When the Commission has designated itself as the presiding officer, it shall expeditiously terminate the proceeding and resolve the complaint based on the existing record.

(5 U.S.C. 554; 47 U.S.C. 154, 159, 208, 209, 214, 309, 312, 316, and 409)

■ 32. Revise § 1.223 to read as follows:

§ 1.223 Petitions to intervene.

(a) Where the order designating a matter for hearing has failed to notify and name as a party to the hearing proceeding any person who qualifies as a party in interest, such person may acquire the status of a party by filing, under oath and not more than 30 days after the publication in the **Federal Register** of the hearing issues or any substantial amendment thereto, a petition for intervention showing the basis of its interest. Where the person's status as a party in interest is established, the petition to intervene will be granted.

(b) Any other person desiring to participate as a party in any hearing proceeding may file a petition for leave to intervene not later than 30 days after the publication in the **Federal Register** of the full text or a summary of the order designating the matter for hearing or any substantial amendment thereto. The petition must set forth the interest of petitioner in the proceedings, must show how such petitioner's participation will assist the Commission in the determination of the issues in question, must set forth any proposed issues in addition to those already designated for hearing, and must be accompanied by the affidavit of a person with knowledge as to the facts set forth in the petition. The presiding officer, in his or her discretion, may grant or deny such petition or may permit intervention by such persons limited to a particular stage of the proceeding.

(c) Any person desiring to file a petition for leave to intervene later than 30 days after the publication in the **Federal Register** of the full text or a summary of the order designating the matter for hearing or any substantial amendment thereto shall set forth the interest of petitioner in the proceeding, show how such petitioner's participation will assist the Commission in the determination of the issues in question, must set forth any proposed issues in addition to those already designated for hearing, and must set

forth reasons why it was not possible to file a petition within the time prescribed by paragraphs (a) and (b) of this section. If, in the opinion of the presiding officer, good cause is shown for the delay in filing, the presiding officer may in his or her discretion grant such petition or may permit intervention limited to particular issues or to a particular stage of the proceeding.

(Sec. 309, 48 Stat. 1085, as amended; 47 U.S.C. 309)

■ 33. Amend § 1.225 by revising paragraphs (b) and (c) to read as follows:

§ 1.225 Participation by non-parties; consideration of communications.

* * * * *

(b) No persons shall be precluded from giving any relevant, material, and competent testimony because they lack a sufficient interest to justify their intervention as parties in the matter.

(c) No communication will be considered in determining the merits of any matter unless it has been received into evidence. The admissibility of any communication shall be governed by the applicable rules of evidence in § 1.351, and no communication shall be admissible on the basis of a stipulation unless Commission counsel as well as counsel for all of the parties shall join in such stipulation.

■ 34. Revise § 1.227 to read as follows:

§ 1.227 Consolidations.

The Commission, upon motion or upon its own motion, may, where such action will best conduce to the proper dispatch of business and to the ends of justice, consolidate in a hearing proceeding any cases that involve the same applicant or substantially the same issues, or that present conflicting claims.

■ 35. Amend § 1.229 by removing paragraphs (b)(1) and (e), redesignating paragraph (b)(2) as (b)(1), redesignating paragraph (b)(3) as (b)(2), redesignating paragraph (f) as paragraph (e), and revising paragraph (a) and redesignated paragraphs (b)(1), (2), and (e) to read as follows:

§ 1.229 Motions to enlarge, change, or delete issues.

(a) A motion to enlarge, change or delete the issues may be filed by any party to a hearing proceeding. Except as provided for in paragraph (b) of this section, such motions must be filed within 15 days after the full text or a summary of the order designating the case for hearing has been published in the **Federal Register**.

(b)(1) For program carriage complaints filed pursuant to § 76.1302 of this chapter that the Chief, Media Bureau refers to a presiding officer, such motions shall be filed within 15 calendar days after the deadline for submitting written appearances pursuant to § 1.221(h), except that persons not named as parties to the proceeding in the designation order may file such motions with their petitions to intervene up to 30 days after publication of the full text or a summary of the designation order in the **Federal Register**. (See § 1.223).

(2) Any person desiring to file a motion to modify the issues after the expiration of periods specified in paragraphs (a) and (b)(1) of this section shall set forth the reason why it was not possible to file the motion within the prescribed period. Except as provided in paragraph (c) of this section, the motion will be granted only if good cause is shown for the delay in filing. Motions for modifications of issues which are based on new facts or newly discovered facts shall be filed within 15 days after such facts are discovered by the moving party.

* * * * *

(e) In any case in which the presiding officer grants a motion to enlarge the issues to inquire into allegations that an applicant made misrepresentations to the Commission or engaged in other misconduct during the application process, the enlarged issues include notice that, after hearings on the enlarged issue and upon a finding that the alleged misconduct occurred and warrants such penalty, in addition to or in lieu of denying the application, the applicant may be liable for a forfeiture of up to the maximum statutory amount. See 47 U.S.C. 503(b)(2)(A).

* * * * *

■ 36. Revise § 1.241 to read as follows:

§ 1.241 Designation of presiding officer.

(a) Hearing proceedings will be conducted by a presiding officer. The designated presiding officer will be identified in the order designating a matter for hearing. Only the Commission, one or more commissioners, or an administrative law judge designated pursuant to 5 U.S.C. 3105 may be designated as a presiding officer. Unless otherwise stated, the term *presiding officer* will include the Commission when the Commission designates itself to preside over a hearing proceeding.

(b) If a presiding officer becomes unavailable during the course of a hearing proceeding, another presiding officer will be designated.

■ 37. Add § 1.242 to Subpart B to read as follows:

§ 1.242 Appointment of case manager when Commission is the presiding officer.

When the Commission designates itself as the presiding officer in a hearing proceeding, it may delegate authority to a case manager to develop the record in a written hearing (see §§ 1.370–1.377). The case manager must be a staff attorney who qualifies as a neutral under 5 U.S.C. 571 and 573. The Commission shall not designate any of the following persons to serve as case manager in a case, and they may not advise or assist the case manager: Staff who participated in identifying the specific issues designated for hearing; staff who have taken or will take an active part in investigating, prosecuting, or advocating in the case; or staff who are expected to investigate and act upon petitions to deny (including challenges thereto). A case manager shall have authority to perform any of the functions generally performed by the presiding officer, except that a case manager shall have no authority to resolve any new or novel issues, to issue an order on the merits resolving any issue designated for hearing in a case, to issue an order on the merits of any motion for summary decision filed under § 1.251, or to perform any other functions that the Commission reserves to itself in the order appointing a case manager.

■ 38. Amend § 1.243 by revising the introductory text, paragraphs (g), (i) through (l), the authority citation, and adding paragraphs (m) and (n) to read as follows:

§ 1.243 Authority of presiding officer.

From the time the presiding officer is designated until issuance of the presiding officer's decision or the transfer of the proceeding to the Commission or to another presiding officer, the presiding officer shall have such authority as granted by law and by the provisions of this chapter, including authority to:

* * * * *

(g) Require the filing of memoranda of law and the presentation of oral argument with respect to any question of law upon which the presiding officer or the Commission is required to rule during the course of the hearing proceeding;

* * * * *

(i) Dispose of procedural requests and ancillary matters, as appropriate;

(j) Take actions and make decisions in conformity with governing law;

(k) Act on motions to enlarge, modify or delete the hearing issues;

(l) Act on motions to proceed in forma pauperis pursuant to § 1.224;

(m) Decide a matter upon the existing record or request additional information from the parties; and

(n) Issue such orders and conduct such proceedings as will best conduce to the proper dispatch of business and the ends of justice.

(5 U.S.C. 556; 47 U.S.C. 154, 159, 208, 209, 214, 309, 312, 316, and 409)

* * * * *

■ 39. Revise § 1.244 to read as follows:

§ 1.244 Designation of a settlement officer.

(a) Parties may request that the presiding officer appoint a settlement officer to facilitate the resolution of the case by settlement.

(b) Where all parties in a case agree that such procedures may be beneficial, such requests may be filed with the presiding officer no later than 15 days prior to the date scheduled for the commencement of hearings or, in hearing proceedings conducted pursuant to §§ 1.370–1.377, no later than 15 days before the date set as the deadline for filing the affirmative case. The presiding officer shall suspend the procedural dates in the case pending action upon such requests.

(c) If, in the discretion of the presiding officer, it appears that the appointment of a settlement officer will facilitate the settlement of the case, the presiding officer shall appoint a ''neutral'' as defined in 5 U.S.C. 571 and 573 to act as the settlement officer.

(1) The parties may request the appointment of a settlement officer of their own choosing so long as that person is a ''neutral'' as defined in 5 U.S.C. 571 and 573.

(2) The appointment of a settlement officer in a particular case is subject to the approval of all the parties in the proceeding.

(3) Neither the Commission, nor any sitting members of the Commission, nor the presiding officer shall serve as the settlement officer in any case.

(4) Other members of the Commission's staff who qualify as neutrals may be appointed as settlement officers. The presiding officer shall not appoint a member of the Commission's staff as a settlement officer in any case if the staff member's duties include, or have included, drafting, reviewing, and/or recommending actions on the merits of the issues designated for hearing in that case.

(d) The settlement officer shall have the authority to require parties to submit their written direct cases for review. The settlement officer may also meet with the parties and/or their counsel, individually and/or at joint conferences, to discuss their cases and the cases of their competitors. All such meetings will be off-the-record, and the settlement officer may express an opinion as to the relative merit of the parties' positions and recommend possible means to resolve the proceeding by settlement. The proceedings before the settlement officer shall be subject to the confidentiality provisions of 5 U.S.C. 574. Moreover, no statements, offers of settlement, representations or concessions of the parties or opinions expressed by the settlement officer will be admissible as evidence in any Commission proceeding.

■ 40. Amend § 1.245 by revising paragraphs (a), (b)(1) through (3), and the authority citation to read as follows:

§ 1.245 Disqualification of presiding officer.

(a) In the event that a presiding officer (other than the Commission) deems himself or herself disqualified and desires to withdraw from the case, the presiding officer shall immediately so notify the Commission.

(b) * * *

(1) The person seeking disqualification shall file with the presiding officer an affidavit setting forth in detail the facts alleged to constitute grounds for disqualification.

(2) The presiding officer may file a response to the affidavit; and if the presiding officer believes he or she is not disqualified, he or she shall so rule and continue with the hearing proceeding.

(3) The person seeking disqualification may appeal a ruling denying the request for withdrawal of the presiding officer, and, in that event, shall do so within five days of release of the presiding officer's ruling. Unless an appeal of the ruling is filed at this time, the right to request withdrawal of the presiding officer shall be deemed waived.

* * * * *

(5 U.S.C. 556; 47 U.S.C. 154, 159, 208, 209, 214, 309, 312, 316, and 409)

* * * * *

■ 41. Revise § 1.248 to read as follows:

§ 1.248 Status conferences.

(a) The presiding officer may direct the parties or their attorneys to appear at a specified time and place for a status conference during the course of a hearing proceeding, or to submit suggestions in writing, for the purpose of considering, among other things, the matters set forth in paragraph (c) of this section. Any party may request a status conference at any time after release of the order designating a matter for hearing. During a status conference, the presiding officer may issue rulings regarding matters relevant to the conduct of the hearing proceeding including, *inter alia,* procedural matters, discovery, and the submission of briefs or evidentiary materials.

(b) The presiding officer shall schedule an initial status conference promptly after written appearances have been submitted under § 1.91 or § 1.221. At or promptly after the initial status conference, the presiding officer shall adopt a schedule to govern the hearing proceeding. If the Commission designated a matter for hearing on a written record under §§ 1.370–1.376, the scheduling order shall include a deadline for filing a motion to request an oral hearing in accordance with § 1.376. If the Commission did not designate the matter for hearing on a written record, the scheduling order shall include a deadline for filing a motion to conduct the hearing on a written record. Except as circumstances otherwise require, the presiding officer shall allow a reasonable period prior to commencement of the hearing for the orderly completion of all prehearing procedures, including discovery, and for the submission and disposition of all motions.

(c) In status conferences, the following matters, among others, may be considered:

(1) Clarifying, amplifying, or narrowing issues designated for hearing;

(2) Scheduling;

(3) Admission of facts and of the genuineness of documents (see § 1.246), and the possibility of stipulating with respect to facts;

(4) Discovery;

(5) Motions;

(6) Hearing procedure;

(7) Settlement (see § 1.93); and

(8) Such other matters that may aid in resolution of the issues designated for hearing.

(d) Status conferences may be conducted in person or by telephone conference call or similar technology, at the discretion of the presiding officer. An official transcript of all status conferences shall be made unless the presiding officer and the parties agree to forego a transcript, in which case any rulings by the presiding officer during the status conference shall be promptly memorialized in writing.

(e) The failure of any attorney or party, following reasonable notice, to appear at a scheduled status conference may be deemed a waiver by that party of its rights to participate in the hearing proceeding and shall not preclude the presiding officer from conferring with parties or counsel present.

* * * * *

■ 42. Revise § 1.249 to read as follows:

§ 1.249 Presiding officer statement.

The presiding officer shall enter upon the record a statement reciting all actions taken at a status conference convened under § 1.248 and incorporating into the record all of the stipulations and agreements of the parties which were approved by the presiding officer, and any special rules which the presiding officer may deem necessary to govern the course of the proceeding.

■ 43. Revise § 1.250 to read as follows:

§ 1.250 Discovery and preservation of evidence; cross-reference.

For provisions relating to prehearing discovery and preservation of admissible evidence in hearing proceedings under this Subpart B, see §§ 1.311 through 1.325.

■ 44. Amend § 1.251 by revising paragraphs (a)(1) and (2), adding paragraph (a)(3), and revising paragraphs (d), (e), and (f)(1) through (3) to read as follows:

§ 1.251 Summary decision.

(a)(1) Any party to an adjudicatory proceeding may move for summary decision of all or any of the issues designated for hearing. The motion shall be filed at least 20 days prior to the date set for commencement of the hearing or, in hearing proceedings conducted pursuant to §§ 1.370–1.377, at least 20 days before the date that the presiding officer sets as the deadline for filing the affirmative case. See § 1.372. The party filing the motion may not rest upon mere allegations or denials but must show, by affidavit or by other materials subject to consideration by the presiding officer, that there is no genuine issue of material fact for determination in the hearing proceeding.

(2) A party may file a motion for summary decision after the deadlines in paragraph (a)(1) of this section only with the presiding officer's permission, or upon the presiding officer's invitation. No appeal from an order granting or denying a request for permission to file a motion for summary decision shall be allowed. If the presiding officer authorizes a motion for summary decision after the deadlines in paragraph (a)(1) of this section, proposed findings of fact and conclusions of law on those issues which the moving party believes can be resolved shall be attached to the motion, and any other party may file findings of fact and conclusions of law as an attachment to pleadings filed by the party pursuant to paragraph (b) of this section.

(3) Motions for summary decision should be addressed to the Commission in any hearing proceeding in which the Commission is the presiding officer and it has appointed a case manager pursuant to § 1.242. The Commission, in its discretion, may defer ruling on any such motion until after the case manager has certified the record for decision by the Commission pursuant to § 1.377.

* * * * *

(d) The presiding officer may, in his or her discretion, set the matter for argument and may call for the submission of proposed findings, conclusions, briefs or memoranda of law. The presiding officer, giving appropriate weight to the nature of the proceeding, the issue or issues, the proof, and the need for cross-examination, if any, may grant a motion for summary decision to the extent that the pleadings, affidavits, materials obtained by discovery or otherwise, admissions, or matters officially noticed, show that there is no genuine issue as to any material fact and that a party is otherwise entitled to summary decision. If it appears from the affidavits of a party opposing the motion that the party cannot, for good cause shown, present by affidavit or otherwise facts essential to justify the party's opposition, the presiding officer may deny the motion, may order a continuance to permit affidavits to be obtained or discovery to be had, or make such other order as is just.

(e) If all of the issues (or a dispositive issue) are determined on a motion for summary decision, the hearing proceeding shall be terminated. When a presiding officer (other than the Commission) issues a Summary Decision, it is subject to appeal or review in the same manner as an Initial Decision. See §§ 1.271 through 1.282. If some of the issues only (including no dispositive issue) are decided on a motion for summary decision, or if the motion is denied, the presiding officer will issue a memorandum opinion and order, interlocutory in character, and the hearing proceeding will continue on the remaining issues. Appeal from interlocutory rulings is governed by § 1.301.

(f) The presiding officer may take any action deemed necessary to assure that summary decision procedures are not abused. The presiding officer may rule in advance of a motion that the proceeding is not appropriate for summary decision, and may take such other measures as are necessary to prevent any unwarranted delay.

(1) Should it appear to the satisfaction of the presiding officer that a motion for summary decision has been presented in bad faith or solely for the purpose of delay, or that such a motion is patently frivolous, the presiding officer will enter a determination to that effect upon the record.

(2) If, on making such determination, the presiding officer concludes that the facts warrant disciplinary action against an attorney, the matter, together with any findings and recommendations, will be referred to the Commission for consideration under § 1.24.

(3) If, on making such determination, the presiding officer concludes that the facts warrant a finding of bad faith on the part of a party to the proceeding, the presiding officer will certify the matter to the Commission, with findings and recommendations, for a determination as to whether the facts warrant the addition of an issue to the hearing proceeding as to the character qualifications of that party.

* * * * *

■ 45. Revise § 1.253 to read as follows:

§ 1.253 Time and place of hearing.

The presiding officer shall specify the time and place of oral hearings. All oral hearings will take place at Commission Headquarters unless the presiding officer designates another location.

■ 46. Revise § 1.254 to read as follows:

§ 1.254 Nature of the hearing proceeding; burden of proof.

Any hearing upon an application shall be a full hearing proceeding in which the applicant and all other parties in interest shall be permitted to participate but in which both the burden of proceeding with the introduction of evidence upon any issue specified by the Commission, as well as the burden of proof upon all such issues, shall be upon the applicant except as otherwise provided in the order of designation.

(Sec. 309, 48 Stat. 1085, as amended; 47 U.S.C. 309)

§ 1.258 [Removed and reserved]

■ 47. Remove and reserve § 1.258.

§ 1.260 [Removed and reserved]

■ 48. Remove and reserve § 1.260.

■ 49. Revise § 1.261 to read as follows:

§ 1.261 Corrections to transcript.

At any time during the course of the proceeding, or as directed by the presiding officer, but not later than 10 days after the transmission to the parties of the transcript of any oral conference or hearing, any party to the proceeding may file with the presiding officer a motion requesting corrections to the transcript, which motion shall be

accompanied by proof of service thereof upon all other parties to the proceeding. Within 5 days after the filing of such a motion, other parties may file a pleading in support of or in opposition to such motion. Thereafter, the presiding officer shall, by order, specify the corrections to be made in the transcript, and a copy of the order shall be served upon all parties and made a part of the record. The presiding officer may *sua sponte* specify corrections to be made in the transcript on 5 days' notice.

■ 50. Amend § 1.263 by revising paragraph (a) and the authority citation to read as follows:

§ 1.263 Proposed findings and conclusions.

(a) The presiding officer may direct any party to file proposed findings of fact and conclusions, briefs, or memoranda of law. If the presiding officer does not so order, any party to the proceeding may seek leave to file proposed findings of fact and conclusions, briefs, or memoranda of law. Such proposed findings of fact, conclusions, briefs, and memoranda of law shall be filed within the time prescribed by the presiding officer.

* * * * *

(5 U.S.C. 557; 47 U.S.C. 154, 159, 208, 209, 214, 309, 312, 316, and 409)

■ 51. Add § 1.265 to Subpart B to read as follows:

§ 1.265 Closing the record.

At the conclusion of hearing proceedings, the presiding officer shall promptly close the record after the parties have submitted their evidence, filed any proposed findings and conclusions under § 1.263, and submitted any other information required by the presiding officer. After the record is closed, it shall be certified by the presiding officer and filed in the Office of the Secretary. Notice of such certification shall be served on all parties to the proceedings.

■ 52. Amend § 1.267 by revising paragraphs (a) and (c) to read as follows:

§ 1.267 Initial and recommended decisions.

(a) Except as provided in §§ 1.94, 1.251 and 1.274, when the proceeding is terminated on motion, or when the presiding officer is the Commission, the presiding officer shall prepare an initial (or recommended) decision, which shall be transmitted to the Secretary of the Commission. In the case of rate making proceedings conducted under sections 201–205 of the Communications Act, the presumption shall be that the presiding officer shall prepare an initial or recommended decision. The Secretary will make the decision public immediately and file it in the docket of the case.

* * * * *

(c) When the Commission is not the presiding officer, the authority of the presiding officer over the proceedings shall cease when the presiding officer has filed an Initial or Recommended Decision, or if it is a case in which the presiding officer is to file no decision, when they have certified the case for decision: *Provided,* however, That the presiding officer shall retain limited jurisdiction over the proceeding for the purpose of effecting certification of the record and corrections to the transcript, as provided in §§ 1.265 and 1.261, respectively, and for the purpose of ruling initially on applications for awards of fees and expenses under the Equal Access to Justice Act.

* * * * *

■ 53. Revise § 1.273 to read as follows:

§ 1.273 Waiver of initial or recommended decision.

When the Commission serves as the presiding officer, it will not issue an initial or recommended decision. When the Commission is not the presiding officer, at any time before the record is closed all parties to the proceeding may agree to waive an initial or recommended decision, and may request that the Commission issue a final decision or order in the case. If the Commission has directed that its review function in the case be performed by a commissioner or a panel of commissioners, the request shall be directed to the appropriate review authority. The Commission or such review authority may in its discretion grant the request, in whole or in part, if such action will best conduce to the proper dispatch of business and to the ends of justice.

■ 54. Revise § 1.274 to read as follows:

§ 1.274 Certification of the record to the Commission for decision when the Commission is not the presiding officer; presiding officer unavailability.

(a) When the Commission is not the presiding officer, and where the Commission finds upon the record that due and timely execution of its functions imperatively and unavoidably so requires, the Commission may direct that the record in a pending proceeding be certified to it for decision.

(b) When a presiding officer becomes unavailable to the Commission after the taking of evidence has been concluded, the Commission shall direct that the record be certified to it for decision. In that event, the Commission shall designate a new presiding officer in accordance with § 1.241 for the limited purpose of certifying the record to the Commission.

(c) In all other circumstances when the Commission is not the presiding officer, the presiding officer shall prepare and file an initial or recommended decision, which will be released in accordance with § 1.267.

(d) When a presiding officer becomes unavailable to the Commission after the taking of evidence has commenced but before it has been concluded, the Commission shall designate another presiding officer in accordance with § 1.241 to continue the hearing proceeding. Oral testimony already introduced shall not be reheard unless observation of the demeanor of the witness is essential to the resolution of the case.

* * * * *

■ 55. Revise § 1.279 to read as follows:

§ 1.279 Limitation of matters to be reviewed.

(a) Upon review of any initial decision, the Commission may, in its discretion, limit the issues to be reviewed to those findings and conclusions to which exceptions have been filed, or to those findings and conclusions specified in the Commission's order of review issued pursuant to § 1.276(b).

(b) No party may file an exception to the presiding officer's ruling that all or part of the hearing be conducted and resolved on a written record, unless that party previously filed an interlocutory motion to request an oral hearing in accordance with § 1.376.

■ 56. Revise § 1.291 to read as follows:

§ 1.291 General provisions.

(a)(1) The Commission acts on petitions to amend, modify, enlarge or delete the issues in hearing proceedings which involve rule making matters exclusively.

(2) All other interlocutory matters in hearing proceedings are acted on by the presiding officer.

(3) Each interlocutory pleading shall identify the presiding officer in its caption. Unless the pleading is to be acted upon by the Commission, the presiding officer shall be identified by name.

(b) All interlocutory pleadings shall be submitted in accordance with the provisions of §§ 1.4, 1.44, 1.47, 1.48, 1.49, 1.50, 1.51, and 1.52.

(c)(1) Procedural rules governing interlocutory pleadings are set forth in §§ 1.294–1.298.

(2) Rules governing appeal from, and reconsideration of, interlocutory rulings made by the presiding officer are set forth in § 1.301.

(3) Petitions requesting reconsideration of an interlocutory ruling will not be entertained.

(d) No initial decision shall become effective under § 1.276(e) until all interlocutory matters pending before the Commission in the proceeding at the time the initial decision is issued have been disposed of and the time allowed for appeal from interlocutory rulings of the presiding officer has expired.

(Secs. 4(i), 303(r) and 5(c)(1) of the Communications Act of 1934, as amended; 47 CFR 0.61 and 0.283)

■ 57. Revise § 1.294 to read as follows:

§ 1.294 Oppositions and replies.

(a) Any party to a hearing proceeding may file an opposition to an interlocutory request filed in that proceeding.

(b) Except as provided in paragraph (c) of this section or as otherwise ordered by the presiding officer, oppositions to interlocutory requests shall be filed within 4 days after the original pleading is filed, and replies to oppositions will not be entertained.

(c) Additional pleadings may be filed only if specifically requested or authorized by the person(s) who is to make the ruling.

* * * * *

■ 58. Amend § 1.298 by revising paragraph (b) to read as follows:

§ 1.298 Rulings; time for action.

* * * * *

(b) In the discretion of the presiding officer, rulings on interlocutory matters may be made orally to the parties. The presiding officer may, in his or her discretion, state reasons therefor on the record if the ruling is being transcribed, or may promptly issue a written statement of the reasons for the ruling, either separately or as part of an initial decision.

* * * * *

■ 59. Amend § 1.301 by revising the section heading and paragraphs (a), (b), and (c)(1) to read as follows:

§ 1.301 Appeal from interlocutory rulings by a presiding officer, other than the Commission, or a case manager; effective date of ruling.

(a) *Interlocutory rulings which are appealable as a matter of right.* Rulings listed in this paragraph are appealable as a matter of right. An appeal from such a ruling may not be deferred and raised as an exception to the initial decision.

(1) If a ruling denies or terminates the right of any person to participate as a party to a hearing proceeding, such person, as a matter of right, may file an appeal from that ruling.

(2) If a ruling requires testimony or the production of documents, over objection based on a claim of privilege, the ruling on the claim of privilege is appealable as a matter of right.

(3) If a ruling denies a motion to disqualify the presiding officer or case manager, the ruling is appealable as a matter of right.

(4) A ruling removing counsel from the hearing is appealable as a matter of right, by counsel on his own behalf or by his client. (In the event of such ruling, the presiding officer will adjourn the hearing proceeding for such period as is reasonably necessary for the client to secure new counsel and for counsel to become familiar with the case).

(b) *Other interlocutory rulings.* Except as provided in paragraph (a) of this section, appeals from interlocutory rulings shall be filed only if allowed by the presiding officer. Any party desiring to file an appeal shall first file a request for permission to file appeal. The request shall be filed within 5 days after the order is released or (if no written order) after the ruling is made. Pleadings responsive to the request shall be filed only if they are requested by the presiding officer. If the presiding officer made the ruling, the request shall contain a showing that the appeal presents a new or novel question of law or policy and that the ruling is such that error would be likely to require remand should the appeal be deferred and raised as an exception. If a case manager made the ruling, the request shall contain a showing that the appeal presents a question of law or policy that the case manager lacks authority to resolve. The presiding officer shall determine whether the showing is such as to justify an interlocutory appeal and, in accordance with his determination, will either allow or disallow the appeal or modify the ruling. Such ruling is final: *Provided, however,* That the Commission may, on its own motion, dismiss an appeal allowed under this section on the ground that objection to the ruling should be deferred and raised after the record is certified for decision by the Commission or as an exception to an initial decision.

(1) If an appeal is not allowed, or is dismissed by the Commission, or if permission to file an appeal is not requested, objection to the ruling may be raised after the record is certified for decision by the Commission or on review of the initial decision.

(2) If an appeal is allowed and is considered on its merits, the disposition on appeal is final. Objection to the ruling or to the action on appeal may not be raised after the record is certified for decision by the Commission or on review of the initial decision.

(3) If the presiding officer modifies their initial ruling, any party adversely affected by the modified ruling may file a request for permission to file appeal, pursuant to the provisions of this paragraph.

(c) * * *

(1) Unless the presiding officer orders otherwise, rulings made shall be effective when the order is released or (if no written order) when the ruling is made. The Commission may stay the effect of any ruling that comes before it for consideration on appeal.

* * * * *

■ 60. Amend § 1.302 by revising the section heading to read as follows:

§ 1.302 Appeal from final ruling by presiding officer other than the Commission; effective date of ruling.

* * * * *

■ 61. Amend § 1.311 by revising the introductory text and paragraph (a), removing the introductory text to paragraph (c) and paragraph (c)(1), redesignating paragraphs (c)(2) and (3) as paragraphs (c)(1) and (2), revising the text of redesignated paragraph (c)(1), removing paragraph (d), redesignating paragraph (e) as paragraph (d), and revising newly redesignated paragraph (d) to read as follows:

§ 1.311 General.

Sections 1.311 through 1.325 provide for taking the deposition of any person (including a party), for interrogatories to parties, and for orders to parties relating to the production of documents and things and for entry upon real property. These procedures may be used for the discovery of relevant facts, for the production and preservation of evidence for use in a hearing proceeding, or for both purposes.

(a) *Applicability.* For purposes of discovery, these procedures may be used in any case of adjudication (as defined in the Administrative Procedure Act) which has been designated for hearing. For the preservation of evidence, they may be used in any case which has been designated for hearing and is conducted under the provisions of this subpart (see § 1.201).

* * * * *

(c)(1) Except as provided by special order of the presiding officer, discovery may be initiated after the initial conference provided for in § 1.248(b) of this part.

(2) In all proceedings, the presiding officer may at any time order the parties or their attorneys to appear at a conference to consider the proper use of these procedures, the time to be allowed

for such use, and/or to hear argument and render a ruling on disputes that arise under these rules.

(d) *Stipulations regarding the taking of depositions.* If all of the parties so stipulate in writing and if there is no interference to the conduct of the proceeding, depositions may be taken before any person, at any time (subject to the limitation below) or place, upon any notice and in any manner, and when so taken may be used like other depositions. A copy of the stipulation shall be filed using the Commission's Electronic Comment Filing System, and a copy of the stipulation shall be served on the presiding officer or case manager at least 3 days before the scheduled taking of the deposition.

* * * * *

■ 62. Add § 1.314 to Subpart B to read as follows:

§ 1.314 Confidentiality of information produced or exchanged.

(a) Any information produced in the course of a hearing proceeding may be designated as confidential by any parties to the proceeding, or third parties, pursuant to §§ 0.457, 0.459, or 0.461 of these rules. Any parties or third-parties asserting confidentiality for such materials must:

(1) Clearly mark each page, or portion thereof, for which a confidential designation is claimed. The parties or third parties claiming confidentiality should restrict their designations to encompass only the specific information that they assert is confidential. If a confidential designation is challenged, the party or third party claiming confidentiality shall have the burden of demonstrating, by a preponderance of the evidence, that the materials designated as confidential fall under the standards for nondisclosure enunciated in the FOIA and that the designation is narrowly tailored to encompass only confidential information.

(2) File with the Commission, using the Commission's Electronic Comment Filing System, a public version of the materials that redacts any confidential information and clearly marks each page of the redacted public version with a header stating ''Public Version.'' The Public Version shall be machine-readable whenever technically possible. Where the document to be filed electronically contains metadata that is confidential or protected from disclosure by a legal privilege (including, for example, the attorney-client privilege), the filer may remove such metadata from the Public Version before filing it electronically.

(3) File with the Secretary's Office an unredacted hard copy, meaning an unredacted version of the materials containing confidential information that clearly displays on each page of the unredacted version a header stating ''Confidential Version.'' The unredacted version must be filed on the same day as the Public Version.

(4) Serve one hard copy of the Public Version and one hard copy of the Confidential Version on the attorney of record for each party to the proceeding, or, where a party is not represented by an attorney, each party to the proceeding either by hand delivery, overnight delivery, or email, together with a proof of such service in accordance with the requirements of § 1.47(g). A hard copy of the Public Version and Confidential Version shall also be served on the presiding officer as identified in the caption.

(b) An attorney of record for any party or any party that receives unredacted materials marked as confidential may disclose such materials solely to the following persons, only for use in prosecuting or defending a party to the hearing proceeding, and only to the extent necessary to assist in the prosecution or defense of the case:

(1) Employees of counsel of record representing the parties in the hearing proceeding;

(2) Officers or employees of the receiving party who are directly involved in the prosecution or defense of the case;

(3) Consultants or expert witnesses retained by the parties; and

(4) Court reporters and stenographers in accordance with the terms and conditions of this section.

(c) The individuals identified above in paragraph (b) shall not disclose information designated as confidential to any person who is not authorized under this section to receive such information, and shall not use the information in any activity or function other than the prosecution or defense in the hearing proceeding. Each such individual who is provided access to the information shall sign a declaration or affidavit stating that the individual has personally reviewed the Commission's rules and understands the limitations they impose on the signing party.

(d) Parties may make copies of materials marked confidential solely for use by the Commission or persons designated in paragraph (b) of this section. Each party shall maintain a log recording the number of copies made of all confidential material and the persons to whom the copies have been provided.

(e) The presiding officer may adopt a protective order as appropriate.

(f) Upon final termination of a hearing proceeding, including all appeals and applications for review, the parties shall ensure that all originals and reproductions of any confidential materials, along with the log recording persons who received copies of such materials, shall be provided to the producing party. In addition, upon final termination of the proceeding, any notes or other work product derived in whole or in part from the confidential materials of an opposing or third party shall be destroyed.

■ 63. Amend § 1.315 by revising paragraph (a) and deleting paragraph (e) to read as follows:

§ 1.315 Depositions upon oral examination—notice and preliminary procedure.

(a) *Notice.* A party to a hearing proceeding desiring to take the deposition of any person upon oral examination shall give a minimum of 21 days' notice to every other party, to the person to be examined, and to the presiding officer or case manager. A copy of the notice shall be filed with the Secretary of the Commission for inclusion in the Commission's Electronic Comment Filing System. Related pleadings shall be served and filed in the same manner. The notice shall contain the following information:

* * * * *

§ 1.316 [Removed and reserved]

■ 64. Remove and reserve § 1.316.

■ 65. Amend § 1.319 by revising the first sentence of paragraphs (c)(2) and (3) to read as follows:

§ 1.319 Objections to the taking of depositions.

* * * * *

(c) * * *

(2) If counsel cannot agree on the proper limits of the examination the taking of depositions shall continue on matters not objected to and counsel shall, within 24 hours, either jointly or individually, provide * * *

(3) The presiding officer shall promptly rule upon the question presented or take such other action as may be appropriate under § 1.313, and shall give notice of his ruling, expeditiously * * *

* * * * *

■ 66. Amend § 1.321 by revising the heading and revising paragraphs (b) and (d)(3) to read as follows:

§ 1.321 Use of depositions in hearing proceedings.

* * * * *

(b) Except as provided in this paragraph and in § 1.319, objection may be made to receiving in evidence any deposition or part thereof for any reason

which would require the exclusion of the evidence if the witness were then present and testifying.

* * * * *

(d) * * *

(3) The deposition of any witness, whether or not a party, may be used by any party for any lawful purpose.

* * * * *

■ 67. Amend § 1.323 by revising paragraph (a) to read as follows:

§ 1.323 Interrogatories to parties.

(a) *Interrogatories.* Any party may serve upon any other party written interrogatories to be answered in writing by the party served or, if the party served is a public or private corporation, partnership, association, or similar entity, by any officer or agent, who shall furnish such information as is available to the party. Copies of the interrogatories, answers, and all related pleadings shall be filed with the Commission and served on the presiding officer and all other parties to the hearing proceeding.

* * * * *

■ 68. Amend § 1.325 by revising paragraph (a)(1) to read as follows:

§ 1.325 Discovery and production of documents and things for inspection, copying, or photographing.

(a) * * *

(1) Copies of the request shall be filed with the Commission and served on the presiding officer and all other parties to the hearing proceeding.

* * * * *

■ 69. Revise § 1.331 to read as follows:

§ 1.331 Who may sign and issue.

Subpenas requiring the attendance and testimony of witnesses, and subpenas requiring the production of any books, papers, schedules of charges, contracts, agreements, and documents relating to any matter under investigation or hearing, may be signed and issued by the presiding officer.

■ 70. Amend § 1.338 by revising paragraph (a) to read as follows:

§ 1.338 Subpena forms.

(a) Subpena forms are available on the Commission's internet site, *www.fcc.gov,* as FCC Form 766. These forms are to be completed and submitted with any request for issuance of a subpena.

* * * * *

■ 71. Revise § 1.351 to read as follows:

§ 1.351 Rules of evidence.

In hearings subject to this Subpart B, any oral or documentary evidence may be adduced, but the presiding officer shall exclude irrelevant, immaterial, or unduly repetitious evidence.

■ 72. Revise § 1.362 to read as follows:

§ 1.362 Production of statements.

After a witness is called and has given direct testimony in an oral hearing, and before he or she is excused, any party may move for the production of any statement of such witness, or part thereof, pertaining to his or her direct testimony, in possession of the party calling the witness, if such statement has been reduced to writing and signed or otherwise approved or adopted by the witness. Such motion shall be directed to the presiding officer. If the party declines to furnish the statement, the testimony of the witness pertaining to the requested statement shall be stricken.

■ 73. Amend Subpart B by adding a new heading and §§ 1.370 through 1.377 to read as follows:

PART 1—PRACTICE AND PROCEDURE

Subpart B—Hearing Proceedings

Hearings on a Written Record

Sec.

1.370 Purpose.
1.371 General pleading requirements.
1.372 The affirmative case.
1.373 The responsive case.
1.374 The reply case.
1.375 Other written submissions.
1.376 Oral hearing or argument.

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 227, 303(r), 309, 1403, 1404, 1451, and 1452.

Hearings on a Written Record

§ 1.370 Purpose.

Hearings under this Subpart B that the Commission or one of its Bureaus, acting on delegated authority, determines shall be conducted and resolved on a written record are subject to §§ 1.371–1.377. If an order designating a matter for hearing does not specify whether those rules apply to a hearing proceeding, and if the proceeding is not subject to 5 U.S.C. 554, the presiding officer may, in their discretion, conduct and resolve all or part of the hearing proceeding on a written record in accordance with §§ 1.371–1.377.

§ 1.371 General pleading requirements.

Written hearings shall be resolved on a written record consisting of affirmative case, responsive case, and reply case submissions, along with all associated evidence in the record, including stipulations and agreements of the parties and official notice of a material fact.

(a) All pleadings filed in any proceeding subject to these written hearing rules must be submitted in conformity with the requirements of §§ 1.4, 1.44, 1.47, 1.48, 1.49, 1.50, 1.51(a), and 1.52.

(b) Pleadings must be clear, concise, and direct. All matters should be pleaded fully and with specificity.

(c) Pleadings shall consist of numbered paragraphs and must be supported by relevant evidence. Assertions based on information and belief are prohibited unless made in good faith and accompanied by a declaration or affidavit explaining the basis for the party's belief and why the party could not reasonably ascertain the facts from any other source.

(d) Legal arguments must be supported by appropriate statutory, judicial, or administrative authority.

(e) Opposing authorities must be distinguished.

(f) Copies must be provided of all non-Commission authorities relied upon which are not routinely available in national reporting systems, such as unpublished decisions or slip opinions of courts or administrative agencies. In addition, copies of state authorities relied upon shall be provided.

(g) Parties are responsible for the continuing accuracy and completeness of all information and supporting authority furnished in a pending proceeding. Information submitted, as well as relevant legal authorities, must be current and updated as necessary and in a timely manner before a decision is rendered on the merits.

(h) Pleadings shall identify the name, address, telephone number, and email address for either the filing party's attorney or, where a party is not represented by an attorney, the filing party. Pleadings may be signed by a party's attorney.

(i) Attachments to any pleading shall be Bates-stamped or otherwise identifiable by party and numbered sequentially. Parties shall cite to Bates-stamped or otherwise identifiable page numbers in their pleadings.

(j) Unless a schedule is specified in the order designating a matter for hearing, at the initial status conference under § 1.248(b), the presiding officer shall adopt a schedule for the sequential filing of pleadings required or permitted under these rules.

(k) Pleadings shall be served on all parties to the proceeding in accordance with § 1.211 and shall include a certificate of service. All pleadings shall be served on the presiding officer or case manager, as identified in the caption.

(l) Each pleading must contain a written verification that the signatory has read the submission and, to the best

of their knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; and that it is not interposed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of the proceeding. If any pleading or other submission is signed in violation of this provision, the Commission may upon motion or upon its own initiative impose appropriate sanctions.

(m) Any party to the proceeding may file a motion seeking waiver of any of the rules governing pleadings in written hearings. Such waiver may be granted for good cause shown.

(n) Any pleading that does not conform with the requirements of the applicable rules may be deemed defective. In such case, the presiding officer may strike the pleading or request that specified defects be corrected and that proper pleadings be filed with the Commission and served on the presiding officer or case manager and all parties within a prescribed time as a condition to being made a part of the record in the proceeding.

(o) Any party that fails to respond to official correspondence, a request for additional information, or an order or directive from the presiding officer or case manager may be subject to appropriate sanctions.

§ 1.372 The affirmative case.

(a) Within 30 days after the completion of the discovery period as determined by the presiding officer, unless otherwise directed by the presiding officer, any party to the proceeding with the burden of proof shall file a pleading entitled ''affirmative case'' that fully addresses each of the issues designated for hearing. The affirmative case submission shall include:

(1) A statement of relevant material facts, supported by sworn statements based on personal knowledge, documentation, or by other materials subject to consideration by the presiding officer, and a full legal analysis of each of the issues designated for hearing;

(2) Citation to relevant sections of the Communications Act or Commission regulations or orders; and

(3) The relief sought.

(b) The affirmative case submission shall address all factual and legal questions designated for hearing, and state in detail the basis for the response to each such question. Responses based on information and belief are prohibited unless made in good faith and accompanied by a declaration or affidavit explaining the basis for the party's belief and why the party could not reasonably ascertain the facts. When a party intends in good faith to deny only part of a designated question in the affirmative case, that party shall specify so much of it as is true and shall deny only the remainder.

(c) Failure to address in an affirmative case submission all factual and legal questions designated for hearing may result in inferences adverse to the filing party.

§ 1.373 The responsive case.

(a) Any other party may file a responsive case submission in the manner prescribed under this section within 30 calendar days of the filing of the affirmative case submission, unless otherwise directed by the presiding officer. The responsive case submission shall include:

(1) A statement of relevant material facts, supported by sworn statements based on personal knowledge, documentation, or by other materials subject to consideration by the presiding officer, and a full legal analysis of any issues designated for hearing.

(2) Citation to relevant sections of the Communications Act or Commission regulations or orders; and

(3) Any relief sought.

(b) The responsive case submission shall respond specifically to all material allegations made in the affirmative case submission. Every effort shall be made to narrow the issues for resolution by the presiding officer.

(c) Statements of fact or law in an affirmative case filed pursuant to § 1.372 are deemed admitted when not rebutted in a responsive case submission.

§ 1.374 The reply case.

(a) Any party who filed an affirmative case may file and serve a reply case submission within 15 days of the filing of any responsive case submission, unless otherwise directed by the presiding officer.

(b) The reply case submission shall contain statements of relevant material facts, supported by sworn statements based on personal knowledge, documentation, or by other materials subject to consideration by the presiding officer, and a full legal analysis that responds only to the factual allegations and legal arguments made in any responsive case. Other allegations or arguments will not be considered by the presiding officer.

(c) Failure to submit a reply case submission shall not be deemed an admission of any allegations contained in any responsive case.

§ 1.375 Other written submissions.

(a) The presiding officer may require or permit the parties to file other written submissions such as briefs, proposed findings of fact and conclusions of law, or other supplementary documents or pleadings. The presiding officer may limit the scope of any such pleadings to certain subjects or issues.

(b) The presiding officer may require the parties to submit any additional information deemed appropriate for a full, fair, and expeditious resolution of the proceeding.

§ 1.376 Oral hearing or argument.

(a) Notwithstanding any requirement in the designation order that the hearing be conducted and resolved on a written record, a party may file a motion to request an oral hearing pursuant to § 1.291. Any such motion shall be filed after the submission of all the pleadings but no later than the date established in the scheduling order. *See* §§ 1.372–1.374, 1.248. The motion shall contain a list of genuine disputes as to outcome-determinative facts that the movant contends cannot adequately be resolved on a written record and a list of witnesses whose live testimony would be required to resolve such disputes. The motion also shall contain supporting legal analysis, including citations to relevant authorities and parts of the record. If the presiding officer finds that there is a genuine dispute as to an outcome-determinative fact that cannot adequately be resolved on a written record, the presiding officer shall conduct an oral hearing limited to testimony and cross-examination necessary to resolve that dispute.

(b) The presiding officer may, on his or her own motion following the receipt of all written submissions, conduct an oral hearing to resolve a genuine dispute as to an outcome-determinative fact that the presiding officer finds cannot adequately be resolved on a written record. Any such oral hearing shall be limited to testimony and cross-examination necessary to resolve that dispute.

(c) Oral argument shall be permitted only if the presiding officer determines that oral argument is necessary to resolution of the hearing.

§ 1.377 Certification of the written hearing record to the Commission for decision.

When the Commission is the presiding officer and it has appointed a case manager under § 1.242, the case manager shall certify the record for decision to the Commission promptly after the hearing record is closed. Notice of such certification shall be served on all parties to the proceeding.

■ 74. Amend § 1.1202 by revising paragraphs (c) and (e) to read as follows:

§ 1.1202 Definitions.

* * * * *

(c) *Decision-making personnel.* Any member, officer, or employee of the Commission, or, in the case of a Joint Board, its members or their staffs, who is or may reasonably be expected to be involved in formulating a decision, rule, or order in a proceeding. Any person who has been made a party to a proceeding or who otherwise has been excluded from the decisional process shall not be treated as a decision-maker with respect to that proceeding. Thus, any person designated as part of a separate trial staff shall not be considered a decision-making person in the designated proceeding. Unseparated Bureau or Office staff shall be considered decision-making personnel with respect to decisions, rules, and orders in which their Bureau or Office participates in enacting, preparing, or reviewing. Commission staff serving as the case manager in a hearing proceeding in which the Commission is the presiding officer shall be considered decision-making personnel with respect to that hearing proceeding.

* * * * *

(e) *Matter designated for hearing.* Any matter that has been designated for hearing before a presiding officer.

* * * * *

■ 75. Amend § 1.1319 by revising the introductory text to paragraph (a) and paragraphs (a)(1) and (2) to read as follows:

§ 1.1319 Consideration of the environmental impact statements.

(a) If the action is designated for hearing:

(1) In rendering an initial decision, the presiding officer (other than the Commission) shall utilize the FEIS in considering the environmental issues, together with all other non-environmental issues.

(2) When the Commission serves as the presiding officer or upon its review of an initial decision, the Commission will consider and assess all aspects of the FEIS and will render its decision, giving due consideration to the environmental and nonenvironmental issues.

* * * * *

■ 76. Amend § 1.1504 by revising paragraph (f) to read as follows:

§ 1.1504 Eligibility of applicants.

* * * * *

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part, unless the presiding officer, as defined in 47 CFR 1.241, determines that such treatment would be unjust and contrary to the purposes of the EAJA in light of the actual relationship between the affiliated entities. In addition, the presiding officer may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

* * * * *

■ 77. Amend § 1.1506 by revising the introductory text in paragraph (c) to read as follows:

§ 1.1506 Allowable fees and expenses.

* * * * *

(c) In determining the reasonableness of the fee sought for an attorney, agent or expert witness, the presiding officer shall consider the following:

* * * * *

■ 78. Amend § 1.1512 by revising the last sentence of paragraph (a) and by revising paragraph (b) to read as follows:

§ 1.1512 Net worth exhibit.

(a) * * * The presiding officer may require an applicant to file additional information to determine its eligibility for an award.

(b) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that portion of the exhibit directly to the presiding officer in a sealed envelope labeled ''Confidential Financial Information'', accompanied by a motion to withhold the information from public disclosure. The motion shall describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(1)–(9), why public disclosure of the information would adversely affect the applicant, and why disclosure is not required in the public interest. The material in question shall be served on Bureau counsel, but need not be served on any other party to the proceeding. If the presiding officer finds that the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with the Commission's established procedures under the Freedom of Information Act, §§ 0.441 through 0.466 of this chapter.

■ 79. Amend § 1.1513 by revising the last sentence to read as follows:

§ 1.1513 Documentation of fees and expenses.

* * * The presiding officer may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

* * * * *

■ 80. Amend § 1.1514 by revising paragraph (c)(1) to read as follows:

§ 1.1514 When an application may be filed.

* * * * *

(c) * * *

(1) The date on which an initial decision or other recommended disposition of the merits of the proceeding by a presiding officer (other than the Commission) becomes administratively final;

* * * * *

■ 81. Amend § 1.1522 by revising the second sentence of paragraph (b) to read as follows:

§ 1.1522 Answer to application.

* * * * *

(b) * * * The filing of this statement shall extend the time for filing an answer for an additional 30 days, and further extensions may be granted by the presiding officer upon request by Bureau counsel and the applicant.

* * * * *

■ 82. Amend § 1.1524 by revising the second sentence to read as follows:

§ 1.1524 Comments by other parties.

* * * A commenting party may not participate further in proceedings on the application unless the presiding officer determines that the public interest requires such participation in order to permit full exploration of matters raised in the comments.

* * * * *

■ 83. Amend § 1.1525 by revising the last sentence to read as follows:

§ 1.1525 Settlement.

* * * If a presiding officer (other than the Commission) approves the proposed settlement, it shall be forwarded to the Commission for final determination. If the Commission is the presiding officer, it shall approve or deny the proposed settlement.

■ 84. Amend § 1.1526 by revising the second sentence of paragraph (a) and revising paragraph (b) to read as follows:

§ 1.1526 Further proceedings.

(a) * * * However, on request of either the applicant or Bureau counsel, or on her own initiative, the presiding officer may order further proceedings, such as an informal conference, oral argument, additional written submissions or, as to issues other than excessive demand or substantial justification, an evidentiary hearing. * * *

(b) A request that the presiding officer order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

* * * * *

■ 85. Amend § 1.1527 by revising the section heading and the first sentence, and adding a new last sentence to read as follows:

§ 1.1527 Initial decision.

A presiding officer (other than the Commission) shall issue an initial decision on the application as soon as possible after completion of proceedings on the application. * * * When the Commission is the presiding officer, the Commission may, but is not required to, issue an initial or recommended decision.

■ 86. Amend § 1.1528 by revising the last sentence to read as follows:

§ 1.1528 Commission review.

* * * If review is taken, the Commission will issue a final decision on the application or remand the application to the presiding officer (other than the Commission) for further proceedings.

* * * * *

■ 87. Amend § 1.1604 by revising paragraphs (b) and (c) to read as follows:

§ 1.1604 Post-selection hearings.

* * * * *

(b) If, after such hearing proceeding as may be necessary, the Commission determines that the ''tentative selectee'' has met the requirements of § 73.3591(a) it will make the appropriate grant. If the Commission is unable to make such a determination, it shall order that another random selection be conducted from among the remaining mutually exclusive applicants, in accordance with the provisions of this subpart.

(c) If, on the basis of the papers before it, the Commission determines that a substantial and material question of fact exists, it shall designate that question for hearing. Hearing proceedings shall be conducted by a presiding officer. See § 1.241.

* * * * *

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 88. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 338, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

■ 89. Amend § 76.7 by revising paragraph (g)(2) to read as follows:

§ 76.7 General special relief, waiver, enforcement, complaint, show cause, forfeiture, and declaratory ruling procedures.

* * * * *

(g) * * *

(2) Before designation for hearing, the staff shall notify, either orally or in writing, the parties to the proceeding of its intent to so designate, and the parties shall be given a period of ten (10) days to elect to resolve the dispute through alternative dispute resolution procedures, or to proceed with an adjudicatory hearing. Such election shall be submitted in writing to the Commission.

[FR Doc. 2019–20568 Filed 10–4–19; 8:45 am]

BILLING CODE 6712–01–P

SURFACE TRANSPORTATION BOARD

49 CFR Part 1250

[Docket No. EP 724 (Sub-No. 5)]

Petition for Rulemaking; Railroad Performance Data Reporting

AGENCY: Surface Transportation Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Surface Transportation Board (STB or Board) grants in part a petition filed by the American Chemistry Council (ACC) to amend the Board's railroad performance data reporting regulations. Specifically, the Board proposes to modify its regulations to include chemical and plastics traffic as a distinct reporting category for the ''cars-held'' metric.

DATES: Comments are due by December 6, 2019. Reply comments are due by January 6, 2020.

ADDRESSES: Comments and replies may be filed with the Surface Transportation Board either via e-filing or in writing addressed to: Surface Transportation Board, Attn: Docket No. EP 724 (Sub-No. 5), 395 E Street SW, Washington, DC 20423–0001. Comments and replies will be posted to the Board's website at *www.stb.gov.*

FOR FURTHER INFORMATION CONTACT: Amy Ziehm at (202) 245–0391. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The Board's railroad performance data reporting regulations at 49 CFR part 1250, which became effective on March 21, 2017, require all Class I carriers and the Chicago Transportation Coordination Office (CTCO), through its Class I members, to report certain service performance metrics on a weekly, semiannual, and occasional basis.

On December 6, 2018, ACC filed a petition for rulemaking [1] to amend those data reporting regulations to: (1) Include chemical and plastics (Standard Transportation Commodity Code (STCC) 28, except fertilizer) [2] traffic as a distinct reporting category for the ''cars-held'' metric at 49 CFR 1250.2(a)(6); (2) amend 49 CFR 1250.3(a) to clarify that yard dwell must be reported for each yard subject to average daily car volume reporting; [3] and (3) extend the same types of terminal reporting requirements that are applicable to the Chicago gateway (as clarified by comments filed by ACC on May 6, 2019) to the New Orleans, East St. Louis, and Memphis gateways (together, the Mississippi Gateways). (Pet. 1, 5; ACC Comments 1, 12–13.)

On January 28, 2019, the Association of American Railroads (AAR) filed a reply in opposition to ACC's petition. By decision served on April 5, 2019 (*April Decision*), the Board opened a rulemaking proceeding and directed ACC and AAR to provide additional information regarding ACC's proposed amendments to the regulations. Pursuant to that decision, ACC and AAR each filed comments on May 6, 2019, and AAR filed reply comments on May 20, 2019.

After considering the petition for rulemaking and the comments received, the Board will grant ACC's petition in

[1] On December 12, 2018, ACC filed an errata to its petition.

[2] ACC excludes the fertilizer reporting category of STCC 28 from its request because fertilizer is already included in the Board's data reporting regulations under 49 CFR 1250.2(a)(6). (*See* Pet. 6.)

[3] ACC initially sought to extend the weekly average terminal dwell time reporting requirement at 49 CFR 1250.2(a)(2) to include all Class I, terminal, and switching carriers at the Chicago gateway. However, as described below, in its comments filed on May 6, 2019, ACC withdraws this part of its initial request and instead seeks the amendment described here.

part and propose to include chemical and plastics (STCC 28, except fertilizer)[4] traffic as a distinct reporting category for the cars-held metric at 49 CFR 1250.2(a)(6). The Board will deny ACC's petition with regard to its other requested amendments.

Background

In 2014, the Board initiated a rulemaking proceeding to establish new regulations requiring all Class I railroads and the CTCO, through its Class I members, to report certain service performance metrics on a weekly basis. *See U.S. Rail Serv. Issues—Performance Data Reporting* (*2014 NPRM*), 80 FR 473 (Jan. 6, 2015), EP 724 (Sub-No. 4) (STB served Dec. 30, 2014).[5] The primary purpose of that rulemaking proceeding was to develop a set of performance data that would allow the agency to monitor current service conditions in the industry and improve the Board's ability to identify and help resolve future regional or national service disruptions more quickly, should they occur. *Id.* at 3. The Board adopted its final rule on November 30, 2016, *U.S. Rail Service Issues—Performance Data Reporting* (*Final Rule*), 81 FR 87472 (Dec. 5, 2016), EP 724 (Sub-No. 4) (STB served Nov. 30, 2016), and the rule became effective on March 21, 2017 (82 FR 9529 (Feb. 7, 2017)).[6]

In its petition, ACC argues that its requested changes ''are desirable to give the Board and shippers consistent service metrics across railroads that provide adequate visibility into critical aspects of the national rail system.'' (Pet. 1.) ACC states that STCC 28 traffic accounts for the highest number of manifest carloads, compared to all other two-digit STCC groups, and plays a key role in the national economy. (*Id.*) ACC also states that STCC 28 traffic is vital to many essential goods and services for consumers and a variety of industries, such as chlorine and other treatment chemicals for the purification of public water supplies, plastics and polymers for use in the manufacturing of automobiles, and various plastics and chemicals for use in the manufacturing of pharmaceuticals and medical devices. (*Id.* at 6–7.) According to ACC, STCC 28 traffic is especially vulnerable to rail service problems because it cannot readily shift to alternative rail carriers or to other modes. (*Id.* at 7.)

ACC maintains that requiring accurate and consistent reporting of STCC 28 service metrics across rail carriers would enable early identification of service issues and a better opportunity to mitigate them. (*Id.*) ACC also states that STCC 28 traffic is an important bellwether of service issues, because it moves long distances and is a leader in traffic volume, second only to coal in total carloads, which means that service issues have a deeper impact on STCC 28 commodities than most other commodity groups. (*Id.* at 9.) Further, ACC states that STCC 28 traffic is more likely to signal congestion at terminals than many other existing categories for the cars-held metric, because it moves almost exclusively in manifest service that must be switched individually or in small blocks at terminals (whereas the existing categories mostly represent unit train traffic, which requires little or no switching at terminals). (*Id.* at 10.)

Additionally, ACC states that extending the same types of Chicago reporting requirements, including dwell time, to the Mississippi Gateways is important because the problems of one carrier at these points can have a cascading effect on other carriers in the national network. (*Id.* at 11.) ACC states that information about service at the Mississippi Gateways is especially important for STCC 28 traffic because a high proportion of this traffic originates in the west and interchanges at the Mississippi Gateways to reach destinations in the east. (*Id.* at 12.)

In its reply to ACC's petition, AAR argues that the Board should not adopt additional commodity-specific reporting, (AAR Reply 2–4, Jan. 28, 2019), and that joint Mississippi Gateways information is unnecessary and would be unduly burdensome (*id.* at 5–6). AAR argues that a narrow focus on subsets of rail traffic can remove important context from the full picture of a globalized supply chain, that commodity-specific reporting is particularly susceptible to such distortion, and that granular reports are therefore of limited benefit. (*Id.* at 2–4.) AAR further argues that continuous changes to the Board's reporting rules would impose ongoing costs to railroads that would need to make programming changes to their systems to comply, and that ACC had the opportunity to advocate for chemical-specific reporting during the initial formulation of the reporting rules but did not make such a proposal. (*Id.* at 3.) Additionally, with respect to the Mississippi Gateways reporting, AAR states that, because the Mississippi Gateways do not have the equivalent of the CTCO,[7] any joint service report would need to be built from the ground up from data from individual carriers. AAR states that this would be burdensome to undertake, and that the burden is not justified. (*Id.* at 5–6.)

In the *April Decision,* 84 FR 14907 (April 12, 2019), EP 724 (Sub-No. 5), slip op. at 2, the Board opened a rulemaking proceeding and directed ACC and AAR to provide additional information. Specifically, the Board directed ACC to elaborate on shippers' experiences using performance data reported under the existing rules to inform their business and supply chain decision-making. *Id.* The Board directed ACC to explain how the additional data requested would materially enhance that decision-making with reference to specific scenarios or real-world circumstances, and, if possible, that ACC quantify the value of additional reporting. *Id.* The Board also directed ACC to provide additional data supporting its selection of the Mississippi Gateways relative to other terminal locations, both in terms of their significance to the overall rail network and specifically to chemical traffic shipments. *Id.* Additionally, the Board directed ACC to explain in greater detail why the existing performance data reported pursuant to § 1250.2(a)(2) are insufficient indicators as to rail performance across the network, including at the Mississippi Gateways. *April Decision,* EP 724 (Sub-No. 5), slip op. at 2.

The Board directed AAR to explain in greater detail the ''programming changes'' railroads would need to make to comply with the proposed reporting requirements; the ''other costs'' that would be associated with complying with the proposed reporting requirements; and the specific process individual carriers would need to undertake to build ''from the ground up data'' to compile a joint service report at each proposed Mississippi Gateway location. *Id.* The Board also directed AAR to provide data that further describes or quantifies the ''ongoing costs'' and ''burden'' of the proposed changes. *Id.*

In response to the *April Decision,* ACC and AAR each filed subsequent

[4] STCC 28 is designated for ''chemicals or allied products'' and referred to generally by ACC as ''chemical and plastics''.

[5] For a background of the service problems that led to the Board initiating the 2014 proceeding, *see 2014 NPRM,* EP 724 (Sub-No. 4), slip op. at 2–3.

[6] By decision served on March 13, 2017, the Board issued a technical correction to the final rule to include an additional fertilizer STCC in addition to the 14 fertilizer STCCs initially included. *U.S. Rail Serv. Issues—Performance Data Reporting,* 82 FR 13401 (March 13, 2017), EP 724 (Sub-No. 4) (STB served Mar. 13, 2017).

[7] AAR states that the CTCO currently reports weekly average terminal dwell in hours for 11 individual Chicago yards and an average of the group. (AAR Reply 4, Jan. 28, 2019.) AAR further states that the CTCO reports encompass the six Class I railroads and both terminal and switching railroads that operate in Chicago. (*Id.*)

comments, and AAR filed a reply.[8] ACC argues that existing performance data reporting has played a crucial role in helping ACC's membership address rail service issues. (ACC Comments 2.) ACC provides several specific examples of how the existing data reporting has helped its members. Among those examples, ACC explains how one member used a carrier's specific data to elevate the member's concerns and establish regular communication with the carrier to address service issues, as well as an example of how a member used such data to make operational and business planning decisions. (*Id.* at 2–5.) ACC states that, with the additional reporting metrics it proposes, chemical shippers would be better prepared to identify rail service issues, address them with railroads, make internal operational adjustments, and manage their railcar fleet. (*Id.* 5–6.) According to ACC, railroads are generally reluctant to collaborate on service issues unless the shipper is able to provide data identifying the issue and possible solutions. (*Id.* at 9.) ACC asserts that the additional reporting would enable shippers to engage with railroads to identify alternative routings involving the Mississippi Gateways or address network issues impacting STCC 28 traffic. (*Id.*) ACC states that the additional reporting would also enhance shippers' ability to internally manage service issues and may lead to substantial cost savings. (*Id.*) ACC provides specific examples of how its members would benefit from the additional data reporting. (*Id.* at 9–11.)

In its May 6 comments, as described further below, AAR provides information on the formation and development of the CTCO and programs, efforts, and systems to collect and report performance data on the Chicago terminal. (AAR Comments 2–6, May 6, 2019.) AAR also provides quantitative estimates of the costs associated with each of ACC's requested reporting requirement changes. (*Id.* at 7–10.) In its reply, AAR argues that ACC has failed to demonstrate that the additional reporting would have public benefits tied to the Board's regulatory authority that would justify the expense and burden that reporting would place on carriers. (AAR Reply 2, May 20, 2019.) Additionally, according to AAR, ACC's filings illustrate continued misconceptions regarding the utility of railroad performance metrics. (*Id.* at 4.) AAR also argues that the utility of railroad service data is limited to identifying changes and trends on a particular railroad, and that the data cannot reliably be used to understand causality, compare rail performance across different commodities or time periods, or compare railroads. (*Id.* at 4–5.)

Discussion of ACC's Requests

ACC Request #1: Include chemical and plastics (STCC 28) traffic as a distinct reporting category for the cars-held metric at 49 CFR 1250.2(a)(6). According to ACC, separately reporting cars-held data for STCC 28 traffic would enable shippers to identify regional issues affecting that traffic. (ACC Comments 6.) ACC argues that the cars-held metric is an important indicator of rail system fluidity, and that for STCC 28 traffic, a fluid rail system is especially important in the Gulf Coast, where a substantial portion of this traffic is concentrated. (*Id.*) ACC asserts that the current data reporting masks the severity of service events having a disproportionate impact on STCC 28 traffic, and ACC provides charts that it asserts show an example of this dynamic. (*Id.* at 6–7.) ACC reiterates that additional reporting will enhance shippers' ability to internally manage service issues and may lead to substantial cost savings. (*Id.* at 9).

AAR responds that additional reporting of STCC 28 traffic as a line item in the ''cars-held for more than 48 hours'' report would necessitate each Class I carrier to alter the coding necessary to pull the data prescribed by the Board. (AAR Comments 9–10.) According to AAR, the cost associated with this request would total approximately $34,000 for all seven Class I railroads, as it would require three to four employees totaling roughly 80 hours to update existing computer coding, write new code to modify the search parameters, test new code against existing systems to make sure it does not cause problems, and have the new code approved. (*Id.* at 10.) AAR again objects to ''continuous changes to the Board's reporting rules,'' as such changes ''impose ongoing costs to railroads that would need to make programming changes to their systems to enable compliance.'' (*Id.* at 9 (quoting AAR Reply 3, Jan. 28, 2019).) AAR again notes that ACC had the opportunity to make this request in the past and failed to do so. (AAR Comments 9.)

After considering ACC's petition and the responsive comments filed, the Board concludes that including STCC 28 traffic as a distinct reporting category for the cars-held metric at 49 CFR 1250.2(a)(6) would be reasonable, warranted, and consistent with the rail transportation policy (RTP) of 49 U.S.C. 10101. As explained in the *Final Rule* in EP 724 (Sub-No. 4), service adequacy is a key part of the Board's mandate under the Interstate Commerce Act. *Final Rule,* EP 724 (Sub-No. 4), slip op. at 5. Pursuant to the RTP, in regulating the railroad industry, it is the policy of the United States Government to minimize the need for regulatory control, 49 U.S.C. 10101(2), promote a safe and efficient rail transportation system, 49 U.S.C. 10101(3), ensure the development of a sound rail transportation system to meet the needs of the public, 49 U.S.C. 10101(4), and encourage efficient management of railroads, 49 U.S.C. 10101(9). ACC's requested amendment to 49 CFR 1250.2(a)(6) would advance these RTP goals.[9] The additional data reporting on chemical and plastics traffic would promote the RTP by allowing the agency, as well as shippers and other stakeholders, to more quickly identify and respond to service issues related to these important commodities. ACC has demonstrated both the critical importance of this particular traffic as well as the benefits to specifically identifying this traffic in the cars-held metric.[10] Reporting of chemicals and plastics as a stand-alone category of cars holding for 48 hours or longer would, in addition to allowing the Board and shippers to monitor the fluidity of these commodities vital to essential goods and services, have the potential to help shippers address such issues privately with railroads, make operational adjustments, and improve their business planning, including though the management of their rail car fleets. These private solutions, without further involvement by the Board, could reduce the need for litigation and could lower overall costs of the provision of these commodities. In light of these significant public benefits, AAR has not shown in its comments to date that the modest one-time coding cost it describes

[8] As noted earlier, in its comments ACC withdraws its second request to extend the reporting at 49 CFR 1250.2(a)(2) to the Chicago gateway, and instead seeks revisions to the Chicago terminal reporting requirements to clarify that yard dwell must be reported for each yard subject to average daily car volume reporting. *See supra* note 3.

[9] Further, as discussed in the *Final Rule,* the Board has the responsibility for monitoring the adequacy of service under specific statutory provisions, including service emergencies under 49 U.S.C. 11123. Moreover, service issues can also be relevant when the Board considers whether railroad service practices are reasonable, 49 U.S.C. 10702, whether to force a line sale in the event of inadequate service, 49 U.S.C. 10907, and whether railroads are fulfilling their common carrier obligations, 49 U.S.C. 11101, or providing safe and adequate car service 49 U.S.C. 11121. *Final Rule,* EP 724 (Sub-No. 4), slip op. at 5.

[10] AAR concedes that ''granular reports'' provide at least a certain ''limited benefit.'' (AAR Reply 4, Jan. 28, 2019.)

would be unduly burdensome to the reporting railroads.

ACC Request #2: Amend 49 CFR 1250.3(a) to clarify that yard dwell must be reported for each yard subject to average daily car volume reporting. In lieu of its initial request, ACC instead seeks amendments to the Chicago terminal reporting requirements that ACC states would clarify that yard dwell must be reported for each yard subject to average daily car volume reporting. (ACC Comments 1.) ACC claims that, while reviewing the Chicago reporting, ACC discovered a disconnect between the current reporting practice and the Chicago terminal reporting rule. (*Id.* at 12.) ACC states that AAR has been reporting the seven-day average yard dwell for the Chicago terminal yards that are subject to average daily car volume reporting under 49 CFR 1250.3(a). (*Id.*) According to ACC, the Board appears to have required this reporting in its decision that issued the Chicago terminal reporting requirements, but the Board did not include the requirement in the rule's text. (*Id.,* citing *Final Rule,* EP 724 (Sub-No. 4), slip op. at 22–23.) ACC requests that the Board make clarifying edits to 49 CFR 1250.3(a) to capture the full scope of required reporting. (*Id.* at 12–13.)

AAR asserts that the ''disconnect'' noted by ACC is merely the text of the Board's decision that accepted AAR's offer to voluntarily report the metrics that were already being shared with Chicago stakeholders. (AAR Reply 5–6, May 20, 2019.) AAR argues that the Board should not codify that voluntary report; instead, the Board should allow the railroads and Chicago stakeholders the flexibility to change reports as business and technology changes warrant, without having to come back to the Board and petition it to begin a rulemaking proceeding. (*Id.* at 6.)

The Board does not agree with ACC's claim of a disconnect between the Board's decision and the rule as codified, which is the sole basis for ACC's request to amend 49 CFR 1250.3(a). The Board explicitly stated in the *Final Rule* that it would ''accept the AAR's *voluntary* offer to include the data it is reporting to [the Chicago Metropolitan Agency for Planning] in CTCO's report to the Board.'' *Final Rule,* EP 724 (Sub-No. 4), slip op. at 23 (emphasis added). The Board further stated that, ''[t]he final rule, as augmented by the data that AAR has offered to submit *voluntarily,* will continue to maintain a robust view of operating conditions in the Chicago gateway.'' *Id.* (emphasis added). Accordingly, there is no confusion regarding the scope of required reporting for Chicago. Therefore, the Board will deny ACC's request to amend 49 CFR 1250.3(a).

ACC Request #3: Extend the terminal reporting requirements applicable to the Chicago gateway to the Mississippi Gateways. ACC states that it requests additional data reporting for the Mississippi Gateways because a substantial amount of its members' traffic move through these gateways. According to ACC, ''multiple large ACC members indicated that approximately 25% of their traffic moves through the Mississippi Gateways.'' (ACC Comments 11.) However, ACC states that it is unable to provide additional data regarding the Mississippi Gateways because the Public Use Waybill Sample does not identify specific interchange locations. (*Id.*) ACC states that, for additional data regarding the volume of STCC 28 traffic moving through the Mississippi Gateways, the Board could review the Confidential Carload Waybill Sample (CCWS), which would enable the Board to calculate the volume of STCC 28 traffic moving through the Mississippi Gateways as well as other gateway locations. (*Id.*) ACC states that it would support the inclusion of additional gateways that the Board determines are significant to the overall rail network. (*Id.*)

According to ACC, the Mississippi Gateways are complex terminals with many interchange yards and multiple carriers, and congestion may impact some, but not all, of the yards and carriers serving a gateway. (*Id.* at 7–8.) Therefore, ACC requests that the proposed Mississippi Gateway reporting provide the terminal- and yard-level data necessary for chemical shippers to pinpoint service issues in these gateways. (*Id.* at 8.) ACC indicates that this information could be used to anticipate bunching and other delays. (*Id.*) ACC states that this information would allow members to know whether a Mississippi Gateway issue is attributable to a carrier or a specific gateway yard and to plan accordingly. (*Id.* at 10.)

ACC also argues that the additional data reporting would enable shippers to more accurately predict their transit times and, thus, more efficiently manage their own private railcar fleets. (*Id.*) For example, according to ACC, the data would enable a member to identify the source of gateway dwells and reduce its fleet accordingly, and potentially help an ACC member advocate for shifting traffic from one gateway to another. (*Id.* at 10–11.)

AAR maintains that ACC has not justified its request for joint reporting of metrics from the Mississippi Gateways. (AAR Reply 3, May 20, 2019.) As noted above, in its May 6, 2019 comments, AAR describes the circumstances that gave rise to the formation of the CTCO and the development of programs, efforts, and systems to address the complexity of Chicago operations, as well as the significant estimated costs of replicating them in the Mississippi Gateways. (AAR Comments 2–9.) AAR estimates that the cost to the Class I carriers of reproducing the joint yard inventory, yard dwell, and trains held reports for the Mississippi Gateways would total approximately $1.6 million in initial development, and approximately $330,000 in annual maintenance expenses. (*Id.* at 6–7.) AAR argues that the Mississippi Gateways do not approach the complexity associated with Chicago operations, nor are any of the Mississippi Gateways as central to the national rail network. (AAR Reply 3, May 20, 2019.) AAR also states that, while ACC's members report that approximately 25% of their individual traffic moves through the Mississippi Gateways, ACC does not attempt to prove that this sampling is representative of chemical traffic generally. (*Id.*) In response to ACC's suggestion that the Board review the CCWS, AAR cautions that the CCWS contains information on commercial interchanges, not necessarily the operational interchanges reflecting where traffic actually moved, so the CCWS can give the Board only a rough understanding of the volume of interchange traffic at each Mississippi Gateway. (*Id.* at 3–4.)

The Board finds that ACC's petition and comments do not provide adequate justification to extend the terminal reporting requirements applicable to Chicago to the Mississippi Gateways at this time. The Board has focused on reporting at Chicago due to Chicago's unique importance to the overall fluidity of the national rail network. *See, e.g., 2014 NPRM,* EP 724 (Sub-No. 4), slip op. at 6 (reiterating ''the longstanding importance of Chicago as a hub in national rail operations and the impact that recent extreme congestion in Chicago has had on rail service in the Upper Midwest and nationwide''). ACC has not demonstrated, nor does analysis of the waybill support,[11] that the Mississippi Gateways have a similar level of importance across commodities and the rail network. Furthermore, ACC

[11] The Office of Economics reviewed the confidential Waybill Sample data for 2017 and determined that 831,606 cars were interchanged in Chicago, while only 410,320 cars were interchanged in the Mississippi Gateways combined.

has not sufficiently explained why the data already collected from each Class I carrier's 10 largest terminals is inadequate to identify problems with fluidity of STCC 28 traffic across the national network, especially if the existing data reporting requirements for the largest terminals are enhanced by the Board's proposal to require separate reporting of cars held for chemical and plastics traffic. Given the costs asserted by AAR of providing such information, ACC has not provided sufficient data to demonstrate the benefits of a separate reporting mechanism at the Mississippi Gateways. Based on the foregoing, the Board concludes that the requested reporting is not warranted at this time and therefore will deny this request.

Proposed Rule

For the reasons discussed above, and as set forth below, the Board proposes to include chemical and plastics (STCC 28, except fertilizer) traffic as a distinct reporting category for the ''cars-held'' metric at 49 CFR 1250.2(a)(6). Interested persons may comment on the proposed rule by December 6, 2019; replies are due by January 6, 2020.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, generally requires a description and analysis of new rules that would have a significant economic impact on a substantial number of small entities. In drafting a rule, an agency is required to: (1) Assess the effect that its regulation will have on small entities; (2) analyze effective alternatives that may minimize a regulation's impact; and (3) make the analysis available for public comment. Sections 601–604. In its notice of proposed rulemaking, the agency must either include an initial regulatory flexibility analysis, Section 603(a), or certify that the proposed rule would not have a ''significant impact on a substantial number of small entities,'' Section 605(b). Because the goal of the RFA is to reduce the cost to small entities of complying with federal regulations, the RFA requires an agency to perform a regulatory flexibility analysis of small entity impacts only when a rule directly regulates those entities. In other words, the impact must be a direct impact on small entities ''whose conduct is circumscribed or mandated'' by the proposed rule. *White Eagle Coop* v. *Conner,* 553 F.3d 467, 480 (7th Cir. 2009).

The Board's proposed change to its regulations here is intended to improve the quality of the service data reported by Class I carriers and does not mandate or circumscribe the conduct of small entities. For the purpose of RFA analysis for rail carriers subject to the Board's jurisdiction, the Board defines a ''small business'' as only including those rail carriers classified as Class III rail carriers under 49 CFR 1201.1–1. *See Small Entity Size Standards Under the Regulatory Flexibility Act,* 81 FR 42566 (June 30, 2016), EP 719 (STB served June 30, 2016) (with Board Member Begeman dissenting).[12] The change proposed here is limited to Class I carriers. Therefore, the Board certifies under 5 U.S.C. 605(b) that the proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities within the meaning of the RFA. This decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration, Washington, DC 20416.

Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501–3521, Office of Management and Budget (OMB) regulations at 5 CFR 1320.8(d)(3), and appendix, the Board seeks comments about the impact of the amendments in the proposed rules to the currently approved collection of the United States Rail Service Issues-Performance Data Reporting (OMB Control No. 2140–0033) regarding: (1) Whether the collection of information, as modified in the proposed rule and further described below, is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility; (2) the accuracy of the Board's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate. The Board estimates that the new requirement to include chemical and plastics (STCC 28) traffic as a distinct reporting category would add a one-time hour burden of 15 hours (or 45 hours amortized over three years) per railroad because the railroads will need to update their existing reporting software programs to implement this change.[13] In addition to the burden of the one-time programming change, the Board estimates that the annual hour burden of this collection has decreased over the last two-plus years to approximately half of its original estimate, due to efficiencies of routine and improvements in technology. The Board welcomes comment on the estimates of actual time and costs of collection of the United States Rail Service Issues-Performance Data Reporting, as detailed below in Appendix. The proposed rules will be submitted to OMB for review as required under 44 U.S.C. 3507(d) and 5 CFR 1320.11. Comments received by the Board regarding the information collection will also be forwarded to OMB for its review when the final rule is published.

List of Subjects in 49 CFR Part 1250

Administrative practice and procedure, Railroads, Reporting and recordkeeping requirements.

It is ordered:

1. ACC's petition for rulemaking is granted in part and denied in part, as discussed above.

2. The Board proposes to amend its rules as set forth in this decision. Notice of the proposed rules will be published in the **Federal Register**.

3. Comments regarding the proposed rule are due by December 6, 2019. Replies are due by January 6, 2020.

4. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration, Washington, DC 20416.

5. This decision is effective on the day of service.

Decided: September 30, 2019.

By the Board, Board Members Begeman, Fuchs, and Oberman.

Kenyatta Clay,

Clearance Clerk.

For the reasons set forth in the preamble, the Surface Transportation Board proposes to amend part 1250 of title 49, chapter X, of the Code of Federal Regulations as follows:

PART 1250—RAILROAD PERFORMANCE DATA REPORTING

■ 1. The authority citation for part 1250 continues to read as follows:

Authority: 49 U.S.C. 1321 and 11145.

■ 2. Amend § 1250.2 by revising paragraph (a)(6) to read as follows:

[12] Class III carriers have annual operating revenues of $20 million or less in 1991 dollars or $39,194,876 or less when adjusted for inflation using 2018 data. Class II carriers have annual operating revenues of less than $250 million or $489,935,956 when adjusted for inflation using 2018 data. The Board calculates the revenue deflator factor annually and publishes the railroad revenue thresholds in decisions and on its website. 49 CFR 1201.1–1; *Indexing the Annual Operating Revenues of R.Rs.,* 84 FR 27829 (June 14, 2019), EP 748 (STB served June 14, 2019).

[13] In making this estimate, the Board has taken into account the information provided by AAR. (*See* AAR Comments 10.)

§ 1250.2 Railroad performance data elements.

(a) * * *

(6) The weekly average of loaded and empty cars, operating in normal movement and billed to an origin or destination, which have not moved in 48 hours or more, sorted by service type (intermodal, grain, coal, crude oil, automotive, ethanol, fertilizer (the following Standard Transportation Commodity Codes (STCCs): 2812534, 2818142, 2818146, 2818170, 2818426, 2819173, 2819454, 2819815, 2871235, 2871236, 2871238, 2871244, 2871313, 2871315, and 2871451), chemicals or allied products (all remaining STCC 28), and all other).

* * * * *

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix

Information Collection

Title: United States Rail Service Issues—Performance Data Reporting.

OMB Control Number: 2140–0033.

Form Number: None.

Type of Review: Revision of a currently approved collection.

Summary: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521, the Surface Transportation Board (Board) gives notice that it is requesting from the Office of Management and Budget (OMB) approval for the revision of the currently approved information collection, United States Rail Service Issues-Performance Data Reporting, OMB Control No. 2140–0033. The requested revision to the currently approved collection is necessitated by this notice of proposed rulemaking (NPRM), which would require respondents to include chemical and plastics (STCC 28) traffic as a distinct reporting category for cars-held metric at 49 CFR 1250.2(a)(6). All other information collected by the Board in the currently approved collection is without change from its approval (currently expiring on June 30, 2020).

Respondents: Class I railroads (on behalf of themselves and the Chicago Transportation Coordination Office (''CTCO'')).

Number of Respondents: Seven.

Estimated Time per Response: The proposed rules seek three related responses, as indicated in the table below.

TABLE—ESTIMATED TIME PER RESPONSE

Type of responses	Estimated time per response (hours)
Weekly	1.5
Quarterly	1.5
On occasion	1.5

Frequency: The frequencies of the three related collections sought under the proposed rules are set forth in the table below.

TABLE—FREQUENCY OF RESPONSES

Type of responses	Frequency of responses (year)
Weekly	52
Quarterly	4
On occasion	2

Total Burden Hours (annually including all respondents): The recurring burden hours are estimated to be no more than 591 hours per year, as derived in the table below. In addition, there are some one-time, start-up costs of approximately 45 hours for each respondent that must be added as a one-time burden due to the programming changes to add the additional reporting category. To avoid inflating the estimated total annual hourly burden, the 45-hour start-up burden has been divided by three and spread over the three-year approval period. Thus, the total annual burden hours for each of the three years are estimated at no more than 696 hours per year.

TABLE—TOTAL BURDEN HOURS

[per year]

Type of responses	Number of respondents	Estimated time per response	Frequency of responses (year)	Total yearly burden hours
Weekly	7	1.5 hours	52	546
Quarterly	7	1.5 hours	4	42
On occasion	1	1.5 hours	2	3
One-Time	7	15 hours (45 hours/3 years)	1	105
Total				696

Total ''Non-hour Burden'' Cost: There are no other costs identified because filings are submitted electronically to the Board.

Needs and Uses: The information collection allows the Board to better understand current service issues and potentially to identify and resolve possible future regional and national service disruptions more quickly. Transparency would also benefit rail shippers and stakeholders, by allowing them to better plan operations and make informed business decisions based on publicly available data, and their own analysis of performance trends over time. As described in more detail above in the NPRM, the Board is amending the rules that apply to this collection to add chemical and plastics (STCC 28, except fertilizer) traffic as a distinct reporting category. The reporting of this traffic as a stand-along category of cars will allow the Board to monitor the fluidity of these commodities and give chemical and plastics shippers the ability to identify and mitigate service issues more readily. The collection by the Board of this information, and the agency's use of this information, enables the Board to meet its statutory duties.

[FR Doc. 2019–21627 Filed 10–4–19; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R6–ES–2018–0045; FXES11130600000C6–178–FF06E11000]

RIN 1018–BC03

Endangered and Threatened Wildlife and Plants; Removal of Howellia aquatilis (Water Howellia) From the List of Endangered and Threatened Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to remove the plant *Howellia aquatilis* (water howellia) from the Federal List of Endangered and Threatened Plants. The best available scientific and commercial data indicate that threats to water howellia identified at the time of listing in 1994 are not as significant as originally anticipated and are being adequately managed. Therefore, the species no longer meets the definition of an endangered or threatened species under the Endangered Species Act of 1973, as amended (Act). This determination is based on a thorough review of all available information, which indicates that this species' population and distribution are much greater than was known at the time of listing in 1994 and that threats to this species have been sufficiently minimized. We are seeking information and comments from the public regarding this proposed rule and the draft post-delisting monitoring (PDM) plan for water howellia.

DATES: We will accept comments received or postmarked on or before December 6, 2019. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below), must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by November 21, 2019.

ADDRESSES: *Written comments:* You may submit written comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: http://www.regulations.gov. In the Search box, enter Docket No. FWS–R6–ES–2018–0045, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on the blue ''Comment Now!'' box. If your comments will fit in the provided comment box, please use this feature of *http://www.regulations.gov,* as it is most compatible with our comment review procedures. If you attach your comments as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred formation is a spreadsheet in Microsoft Excel.
- *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R6–ES–2018–0045, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you submit written comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see *Public Comments,* below, for more details).

Document availability: This proposed rule and supporting documents, including a copy of the draft post-delisting monitoring plan referenced throughout this document, are available on *http://www.regulations.gov* at Docket No. FWS–R6–ES–2018–0045. In addition, the supporting file for this proposed rule will be available for public inspection, by appointment, during normal business hours at the Montana Ecological Services Field Office, 585 Shepard Way, Suite 1, Helena, MT 59601; telephone: 406–449–5225. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

FOR FURTHER INFORMATION CONTACT: Jodi Bush, Office Supervisor, telephone: 406–449–5225. Direct all questions or requests for additional information to: WATER HOWELLIA QUESTIONS, U.S. Fish and Wildlife Service, Montana Ecological Services Field Office, 585 Shepard Way, Suite 1, Helena, MT 59601. Individuals who are hearing-impaired or speech-impaired may call the Federal Relay Service at 800–877–8337 for TTY assistance.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act, if a species is determined to no longer be an endangered or threatened species, we may reclassify the species or remove it from the Federal Lists of Endangered and Threatened Wildlife and Plants due to recovery. A species is an ''endangered species'' for purposes of the Act if it is in danger of extinction throughout all or a significant portion of its range and is a ''threatened species'' if it is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act does not define the term ''foreseeable future.'' However, we consider ''foreseeable future'' as that period of time within which a reliable prediction can be reasonably relied upon in making a determination about the future conservation status of a species. Water howellia is listed as threatened. We are proposing to remove this species from the Federal List of Endangered and Threatened Plants (*i.e.,* ''delist'' this species) because we have determined that it is not likely to become an endangered species now or within the foreseeable future. Delisting a species can only be completed by issuing a rule.

The basis for our action. Under the Act, we can determine that a species is an endangered or threatened species based on any one or more of the following five factors or the cumulative effects thereof: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. Based on an assessment of the best available information regarding the status of and threats to water howellia, we have determined that the species no longer meets the definition of an endangered or threatened species under the Act.

We will seek peer review. We will seek comments from independent specialists to ensure that our determination is based on scientifically sound data, assumptions, and analyses. We will invite these peer reviewers to comment on this delisting proposal. Because we will consider all comments and information we receive during the comment period, our final determination may differ from this proposal.

Information Requested

Public Comments

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned governmental agencies, Native American tribes, the scientific community, industry, or any other interested parties concerning this proposed rule. Comments should be as specific as possible. We particularly seek comments concerning:

(1) Reasons why we should or should not remove water howellia from the List of Endangered and Threatened Plants;

(2) New biological or other relevant data concerning any threat (or lack thereof) to this species (for example, those associated with climate change);

(3) New information on any efforts by the State or other entities to protect or otherwise conserve the species;

(4) New information concerning the range, distribution, and population size or trends of this species;

(5) New information on the current or planned activities in the habitat or range that may negatively affect or benefit the species; and

(6) Information pertaining to the requirements for post-delisting monitoring of water howellia.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include. Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, may not meet the standard of information required by section 4(b)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*), which directs that determinations as to whether any species is an endangered or threatened species must be made ''solely on the basis of the best scientific and commercial data available.''

Prior to issuing a final determination on this proposed action, we will take into consideration all comments and any additional information we receive. Such information may lead to a final rule that differs from this proposal. All comments and information we collect, including commenters' names and addresses, if provided to us, will become part of the supporting record.

You may submit your comments and materials concerning the proposed rule by one of the methods listed in **ADDRESSES**. If you submit your comments electronically, you must submit your comments on *http://www.regulations.gov* before 11:59 p.m. (Eastern Time) on the date specified in **DATES**. 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**.

If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the website. Please note that comments posted on this website are not immediately viewable. When you submit a comment, the system receives it immediately. However, the comment will not be publicly viewable until we post it, which might not occur until several days after submission.

If you mail or hand-deliver hardcopy comments that include personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. To ensure that the electronic docket for this rulemaking is complete and all comments we receive are publicly available, we will post all hardcopy submissions on *http://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule and the draft post-delisting monitoring (PDM) plan, 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, Montana Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Public Hearings

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if requested. We must receive requests for public hearings, in writing, by the date specified above in **DATES**. You must send your request to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule at least one public hearing on this proposal if any are requested, and announce the dates, times, and places of those hearings, as well as how to obtain reasonable accommodation, in the **Federal Register** and local newspapers at least 15 days before the hearing.

Peer Review

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994, (59 FR 34270) and our August 22, 2016, memorandum updating and clarifying the role of peer review under the Act, we will seek the expert opinion of at least three appropriate and independent specialists regarding the scientific data and interpretations contained in this proposed rule. These reviews will be completed during the public comment period; we will send copies of this proposed rule to the peer reviewers immediately following publication in the **Federal Register**. Peer reviewer comments will be available, along with other public comments, in the docket for this proposed rule. The purpose of such review is to ensure that our decisions are based on scientifically sound data, assumptions, and analysis. Accordingly, our final decision may differ from this proposal.

Previous Federal Actions

On December 15, 1980, we published a notice of review in the **Federal Register** (45 FR 82480) issuing a list of plant taxa being considered for listing as endangered or threatened. Water howellia was included on this list as a Category 2 species. Category 2 species were taxa for which information in possession of the Service at that time indicated the probable appropriateness of listing as endangered or threatened but for which sufficient information was not available to biologically support a proposed rule.

On February 21, 1990, we published a notice of review in the **Federal Register** (55 FR 6184) reclassifying water howellia from a Category 2 species to a Category 1 species. Category 1 species were taxa for which the Service currently had on file enough substantial information on biological vulnerability and threat(s) to support proposed rules to list them as endangered or threatened species. Because water howellia is the only species within the genera *Howellia,* we assigned a Category 1 listing priority to this plant.

On October 30, 1991, the Service was petitioned to list water howellia as an endangered species. On April 16, 1993, we published in the **Federal Register** a proposed rule (58 FR 19795) to list water howellia as threatened. This proposed rule also served the Service's finding for the October 30, 1991, petition.

On July 14, 1994, we published in the **Federal Register** a final rule (59 FR 35860) listing water howellia as a threatened species. The final rule included a determination that the designation of critical habitat for water howellia was not prudent.

In 1996, we drafted a recovery plan for the species (USFWS 1996, entire). To date, this plan has not been finalized.

On April 18, 2007, we published a notice in the **Federal Register** (72 FR 19549) announcing the initiation of a 5-year review for water howellia. The resulting recommendation from this 5-year review (USFWS 2013, entire) was to take the necessary steps to remove water howellia from the List of Endangered and Threatened Plants (*i.e.,* to ''delist'' the species).

Background

Species Information

It is our intent to discuss only those topics directly related to delisting water howellia in this proposed rule. For more information on the description, biology, ecology, and habitat of water howellia, please refer to the final listing rule published in the **Federal Register** on July 14, 1994 (59 FR 35860); the most recent 5-year review for water howellia completed in August of 2013 (USFWS 2013, entire); and the draft recovery plan for water howellia, completed in

September 1996 (USFWS 1996, entire). These documents will be available as supporting materials on *http://www.regulations.gov* under Docket No. FWS–R6–ES–2018–0045.

Species Description and Habitat Information

Water howellia was first collected in 1879, along the Columbia River in Multnomah County, Oregon (Gray 1880, entire), and is native to the northwestern United States. The taxonomy of water howellia as a full species in a monotypic genus is widely accepted as valid by the scientific community (The Plant List 2013, unpaginated; ITIS 2017).

Water howellia is an annual, aquatic herb in the bellflower family (Campanulaceae). The entire plant is smooth, possessing no hairs or projections. The stems are fragile, submerged and floating, reaching up to 39 inches (in.) (100 centimeters (cm)) in length. Stems branch several inches from the base, and each branch extends to the water surface. The numerous leaves are narrow and range from 1–2 in. (25–50 millimeters (mm)) long.

Water howellia produce two types of flowers: Cleistogamous (closed) and chasmogamous (showy, open for pollination). Small cleistogamous flowers are produced along the stem below the water surface and are self-fertilizing. Chasmogamous flowers are produced on the water surface and commonly self-pollinate (Lesica *et al.* 1988, p. 276; Shelly and Moseley 1988, pp. 5–6).

Seed germination occurs in the fall, only when ponds dry and seeds are exposed to air (Lesica 1990). Water howellia seedlings overwinter in soil and resume growth in spring in northern climates (Mincemoyer 2005, p. 3) or begin growing after fall germination in southern climates (*e.g.,* California) (Johnson 2013, pers. comm.). Spring growth in California and low-elevation occurrences in western Washington typically commences in early April, and in eastern Washington, Idaho, and Montana by early May. Range wide, emergent (chasmogamous) flowers bloom soon after the stems reach the water surface and are typically present from May through July. Seed dispersal starts in June from submerged (cleistogamous) flowers and extends until late summer from emergent flowers (Shelly and Moseley 1988, p. 5).

Long-term viability of water howellia seeds is uncertain. Decreased germination rates have been documented for seeds residing in the soil longer than 8 months (Lesica 1992, pp. 415–416). However, monitoring data and observations from Montana (U.S. Forest Service (USFS) 2002, pp. 6–7; USFWS 1996, pp. 17–18) and Washington (Gilbert 2008, pers. comm.) indicate the presence of water howellia occurrences after 2 consecutive years with no plant observations, suggesting a significant number of seeds may remain viable for at least 3 years. This life-history strategy likely provides a buffer against unfavorable growing conditions in consecutive years.

Water howellia plants typically inhabit small, vernal freshwater wetlands and ponds with an annual cycle of filling with water in spring and drying up in summer or autumn (USFWS 1996, p. 14). These habitats can be glacial potholes or depressions (Shapley and Lesica 1997, p. 8; U.S. Department of Defense (USDOD) 2017a, p. 1) or river oxbows (Lesica 1997, p. 366) in Montana and western Washington, riverine meander scars (Idaho NHP 2017, p. 1; Wiechmann 2014a, p. 3) in Idaho, glacial-flood remnant wetlands (Robison 2007, p. 8) in eastern Washington, or landslide depressions (Johnson 2013, pers. comm.) in California, but are all ephemeral (transitory) to some degree. Depending on annual patterns of temperature and precipitation, the drying of the ponds may be complete or partial by autumn; these sites are usually shallow and less than 3 feet (ft) (1 meter (m)) in depth. Some ponds supporting water howellia are dependent on complex ground and surface water interactions. Snow melt runoff is important in maintaining suitable conditions in the spring, while localized groundwater flow mitigates water loss from evaporation and plant transpiration later in the summer (Reeves and Woessner 2004, pp. 7–9).

Water howellia occupies habitats across its range that vary in the extent of canopy cover, suggesting some flexibility in light tolerance. Many water howellia occurrences are surrounded or nearly surrounded, by forested vegetation (Mincemoyer 2005, p. 7), with numerous observations reporting water howellia occupying shaded portions of ponds and wetlands (Isle 1997, p. 32; McCarten *et al.* 1998, p. 4). Conversely, on the Joint Base Lewis-McChord (Lewis-McChord) military base in Washington, occupied ponds were historically surrounded by prairie vegetation and, as a result of years of fire suppression, are now surrounded by forest (Gilbert 2017, pers. comm.). Currently, water howellia is occurring in portions of ponds that receive the most light and least shade (Gilbert 2017, pers. comm.). In Montana's Swan Valley, water howellia was present in 78 percent of sites with prior disturbance (roads, fire, grazing, and vegetation treatments) of vegetation surrounding the ponds (Pipp 2017, p. 6), indicating some plasticity to disturbance and varying light levels.

Range, Distribution, Abundance, and Trends of Water Howellia

Water howellia is endemic to the Pacific Northwest with historical occurrences identified in California, Oregon, Washington, Idaho, and Montana (Shelly and Moseley 1988, pp. 6, 9). Currently, the species still occurs in all five States representing six distinct geographic areas. The species' historical distribution—before European settlement and modern development in the Pacific Northwest—is unknown. However, the geographic area historically occupied by the species was likely small, due to the species' requirement of ephemeral wetlands with specific filling and drying regimes. Since listing in 1994, new occurrences of water howellia have been documented in all five States, generally in areas known historically to support the species. Thus, locations of extant occurrences are generally representative of the areas where the species was thought to historically occur.

At the time of Federal listing (1994), 107 water howellia occurrences (defined as known populations) were known across the species' range (59 FR 35860; July 14, 1994). In 2017, a minimum of 307 occurrences were documented. The majority of extant occurrences (91 percent) are within three metapopulations occupying distinct, geographic areas in Montana's Swan Valley (Lake and Missoula Counties); Department of Defense property at Lewis-McChord, Pierce County in western Washington; and Turnbull National Wildlife Refuge (Turnbull Refuge), Spokane County in northeastern Washington (Figure 1). Regional occurrences of plants demonstrate metapopulation structure when regional persistence is governed by the processes of patch colonization, extirpation (local extinction), and recolonization (Freckleton and Watkinson 2002, p. 419). These metapopulations are important to the viability of the species as long-term persistence is expected of metapopulations compared to small, isolated occurrences that generally experience short persistence (Lesica 1992, p. 420). Consequently, identification of these metapopulations is important for directing conservation efforts toward the regional availability of suitable habitat (Freckleton and Watkinson 2002, p. 432). Currently, 258

of the 307 (84 percent) reported water howellia occurrences are on lands administered by the Federal Government. There are 37 reported occurrences of water howellia on private property; however, little is known about them, as limited monitoring of these occurrences has taken place over the years.

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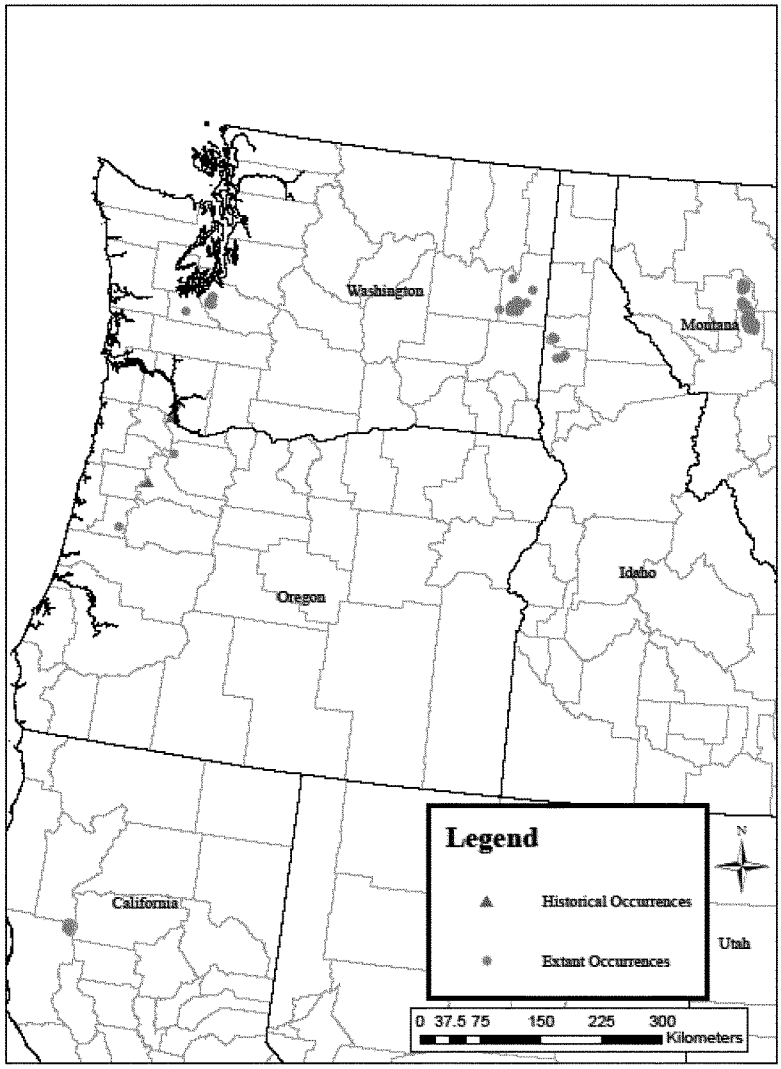

Figure 1. Historical and extant occurrences of water howellia across the species' known range.

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Trends for water howellia are difficult to determine. Substantial numbers of new occurrences have been discovered since listing in 1994, and, most recently, several occurrences have been documented in Oregon, where the species was thought to be extirpated. However, this may not necessarily indicate a positive population trend. Rather, this could indicate increased efficiency at finding new occurrences. Consistent, standardized monitoring has not occurred across the range of the species, making it difficult to document trends. Additionally, an occurrence is broadly defined as ''a known population.'' Abundance of individual water howellia plants within occurrences fluctuates widely. This is due, in part, to environmental conditions of the preceding autumn,

which affect seed germination rates. Nevertheless, based on the discovery of many new occurrences and few recent extirpations of existing occurrences, population trends for the species appear to be stable.

Genetic variation among water howellia occurrences is low. Occurrences in California and Montana are genetically similar; however, occurrences in Idaho and Washington are more distantly related (Schierenbeck and Phipps 2010, p. 5). These data suggest that gene flow is occurring between occurrences separated by large geographic distances, albeit at a relatively low rate. A correlation between migratory waterfowl routes with either genetic similarity or distance indicates that waterfowl may be transporting seed or plant material between water howellia population areas (Schierenbeck and Phipps 2010, pp. 6–7). A more robust sampling and genetic analysis of water howellia occurrences across the species' range would be necessary to support or refute this hypothesis.

Conservation Efforts

Here, we provide a summary of progress made on the draft recovery criteria for water howellia. More detailed information related to conservation efforts can be found below under *Summary of Factors Affecting the Species*. A recovery plan for water howellia was drafted in 1996; to date, the plan has not been finalized (USFWS 1996, entire). The draft plan includes objective, measureable criteria for delisting; however, the plan is dated and may no longer reflect the best scientific information available for water howellia. Since 1994, monitoring has resulted in additional occurrences being documented in all five States, including Oregon, where the species was thought to be extirpated. Additionally, significant exchanges of land have occurred in Montana, resulting in ponds occupied by water howellia being transferred from private ownership to State or Federal ownership, which provides greater protections. Lastly, research specific to water howellia has increased our understanding of the biology and ecology of the species.

Below are the recovery criteria as described in the draft recovery plan and the progress made to date in implementing each.

1. *Recovery criterion:* Management practices, in accordance with habitat management plans, have reduced and/or controlled anthropogenic threats, thereby maintaining the species and its habitat integrity throughout the currently known range on public lands in five geographic areas for 10 years after the effective date of the final recovery plan (when finalized). Monitoring will demonstrate the effectiveness of management plans. Management plans will be in place for, at a minimum, the occurrences listed in the following table:

TABLE OF FORMALIZED MANAGEMENT PLANS PER GEOGRAPHIC AREA

Geographic area	Minimum number of occurrences identified in draft recovery plan	Current number of occurrences covered by management plans	Years management plans in place
Montana	67	191	20
Spokane County, Washington	33	37	10
Pierce County, Washington	5	19	14
Clark County, Washington	4	4	7
Mendocino County, California	5	7	22

Progress: Despite the recovery plan not being finalized, management plans are in place on public lands for the minimum number of occurrences identified in the table above.

Monitoring indicates management plans have been effective at maintaining the minimum number of occurrences by reducing or eliminating anthropogenic threats associated with land management activities (*e.g.,* timber harvest, road construction, and maintenance) and other threats (*e.g.,* invasive species). Prior to formalized management plans, some conservation efforts were occurring on Federal, State, and some private land. In addition, survey efforts have documented substantially more occurrences of water howellia range wide than were known at the time of listing (Mincemoyer 2005, pp. 4–5; Frymire 2017, pers. comm.; Gilbert 2017, pers. comm.; Johnson 2017, pers. comm.; Lichthardt and Pekas 2017, p. 1; ORBIC 2017, unpaginated; Rule 2017, pers. comm.).

2. *Recovery criterion:* Foster or promote the conservation of occurrences on lands not addressed by agency management plans. Specifically, this recovery criterion recommends long-term conservation measures for the occurrence in Latah County, Idaho.

Progress: Long-term conservation measures for water howellia have been established through land transfers, conservation easements, and management plans on some private lands. In Montana's Swan Valley, large-scale land transfers (67,000 acres (ac) (27,000 hectares (ha)) for the benefit of many species have occurred, and land supporting known water howellia occurrences have been transferred from private to Federal ownership. These occurrences are now protected under Federal agency management plans and conservation strategies. Additionally, one occurrence located on private land in Latah County, Idaho, is protected under a conservation agreement, held in perpetuity by the Palouse Land Trust. In the 5-year review (USFWS 2013, p. 6), it was noted that, in addition to the conservation agreement, a management plan for this occurrence was being developed, but to date that has not yet been completed (Trujillo 2017, pers. comm.). The Service is unaware of any information regarding additional efforts to protect water howellia occurrences on private land in other parts of the species' range.

3. *Recovery criterion:* A post-delisting strategy for monitoring the species' population dynamics is in place.

Progress: We have developed a draft post-delisting monitoring plan in cooperation with the States and Federal land management partners. The draft post-delisting monitoring plan is available for public review on *http://www.regulations.gov* under Docket No. FWS–R6–ES–2018–0045.

Additionally, the 5-year review recommended development of a memorandum of understanding (MOU) with the USFS and USDOD to ensure the continuation of existing conservation measures currently benefitting water howellia. Although a formal MOU has not been developed, both agencies have specific conservation strategies in place (for specific

conservation strategies, see discussion of land management effects under A. *The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range,* below).

Summary of Factors Affecting the Species

Section 4 of the Act and its implementing regulations (50 CFR part 424) set forth the procedures for listing species, reclassifying species, or removing species from listed status. ''Species'' is defined by the Act as including any species or subspecies of fish or wildlife or plants, and any distinct vertebrate population segment of fish or wildlife that interbreeds when mature (16 U.S.C. 1532(16)). A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We must consider these same five factors in delisting a species. For species that are already listed as endangered or threatened species, this analysis of threats is an evaluation of both the threats currently facing the species and the threats that are reasonably likely to affect the species in the foreseeable future following the removal of the Act's protections. We may delist a species according to 50 CFR 424.11(d) if the best available scientific and commercial data indicate that the species is neither endangered nor threatened for the following reasons: (1) The species is extinct; (2) the species has recovered and is no longer endangered or threatened; and/or (3) the original scientific data used at the time the species was classified were in error.

Water howellia is currently listed as threatened. Section 3(20) of the Act defines a ''threatened species'' as ''any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range'' (16 U.S.C. 1532(20)). We consider ''foreseeable future'' to be that period of time within which a reliable prediction can be reasonably relied upon in making a determination about the future conservation status of a species, as described on January 16, 2009, Solicitor's opinion, and number M–37021 (DOI 2009, entire). We consider 30 years to be a reasonable period of time within which reliable predictions can be made for the species. This time period includes multiple generations of water howellia. Additionally, various global climate models and emission scenarios provide consistent predictions within that timeframe (IPCC 2014, p. 11). We consider 30 years a relatively conservative timeframe in view of the long-term protections in place for 84 percent of the species' occupied habitat occurring on Federal land.

A recovered species has had threats removed or reduced to the point that it no longer meets the Act's definition of endangered or threatened. A species is ''endangered'' for purposes of the Act if it is in danger of extinction throughout all or a significant portion of its range and is ''threatened'' if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range. For the purposes of this analysis, we will evaluate whether or not the currently listed species, water howellia, should continue to be listed as threatened, based on the best scientific and commercial information available.

In considering what factors might constitute threats, we must look beyond the exposure of the species to a particular factor to evaluate whether the species may respond to the factor in a way that causes actual impacts to the species. If there is exposure to a factor and the species responds negatively, the factor may be a threat, and during the five-factor threats analysis, we will attempt to determine the significance of the threat. The threat is significant if it drives or contributes to the risk of extinction of the species such that the species warrants listing as endangered or threatened as those terms are defined by the Act. However, the identification of factors that could affect a species negatively may not be sufficient to justify a finding that the species warrants listing or should remain listed. The information must include evidence sufficient to suggest that the potential threat is likely to materialize and that it has the capacity (sufficient magnitude and extent) to affect the species' status such that it meets the definition of endangered or threatened under the Act. This determination does not necessarily require empirical proof of a threat. The combination of exposure and some corroborating evidence of how the species is likely impacted could suffice. The mere identification of factors that could impact a species negatively is not sufficient to compel a finding that a listing action is appropriate; we require evidence that these factors are operative threats that act on the species to the point that the species meets the definition of an endangered species or threatened species under the Act. The following analysis examines the five factors currently affecting water howellia, or that are likely to affect it within the foreseeable future.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Factor A requires the Service to consider present or threatened destruction, modification, or curtailment of water howellia habitat or range. The following potential threats were identified for this species at the time of listing: (1) Invasive species, (2) land management (primarily timber harvest and road building), (3) trampling by domestic livestock, (4) direct habitat loss from urbanization or dam construction, and (5) the narrow ecological requirements of the species (59 FR 35860; July 14, 1994). In the analysis that follows, we also considered climate change in the context of narrow ecological requirements. An assessment of threats (1) through (4) follows; the narrow ecological requirements of the species and climate change are discussed under Factor E, below.

Invasive Species

In the 1994 final listing rule (59 FR 35860, July 14, 1994), invasive plant species were identified as a threat to water howellia in habitats where they overlap. Invasive species, such as reed canarygrass (*Phalaris arundinacea*) and sweet flag (*Acorus calamus*), were identified to have the capacity to outcompete water howellia, presumably for nutrients and space, effectively excluding water howellia from historically occupied water bodies (Lesica 1997, p. 367). *P. arundinacea* was specifically identified as having the potential to extirpate water howellia occurrences (59 FR 35860; July 14, 1994), and as a result, we focus our analysis on this species. We are not aware of any information indicating potentially significant negative impacts to water howellia from any other invasive species.

P. arundinacea is present in water howellia habitat in all States, except California (Johnson 2017, per. comm.), but the extent of invasion varies by site (Gilbert 2017, pers. comm.; Rule 2017, pers. comm.; Shelly 2017, pers. comm.; Lesica 1997, pp. 367–368). Abundance of *P. arundinacea* in ponds occupied by water howellia on Lewis-McChord and the Turnbull Refuge has fluctuated through time, with no definitive long-term trend, based on personal observation and long-term monitoring (Gilbert 2017, pers. comm.; Rule 2017,

pers. comm.). In Montana, *P. arundinacea* exhibited a slight upward trend in presence and abundance from long-term monitoring in 1998–2007 (USFS 2010, pp. 1–2), but increased distribution has not been detected recently (Shelly 2017, pers. comm.). In Idaho, monitoring efforts have not detected any decreases in pond size, which may act as a surrogate for *P. arundinacea* colonization; however, detailed monitoring of *P. arundinacea* has not been conducted (Lichthardt and Pekas 2017, p. 6). Little is known about the extent of *P. arundinacea* invasion with regard to the extent of occurrences in Oregon.

The mechanisms driving invasive potential of *P. arundinacea* within water howellia habitats are unclear. The invasive potential may be due to some sites being occupied by a native genotype of *P. arundinacea* and other sites being occupied by a highly invasive variety (Lichthardt and Pekas 2017, p. 8; Wiechmann 2014a, p. 31). Density of *P. arundinacea* is a better determinant of impact to water howellia occurrences than presence alone (Wiechmann 2014a, pp. 31, 34, 38). Additionally, *P. arundinacea* was found to be dominant at shallower water depths and water howellia dominant at deeper depths, suggesting that water howellia is occupying a niche that *P. arundinacea* may be unable to occupy (Wiechmann 2014a, p. 32).

Mechanical and chemical treatment efforts to decrease the abundance and distribution of *P. arundinacea* have largely been successful across the range of water howellia (TNC 2006, p. 65; Gilbert 2008, 2013, pers. comm.; Lichthardt and Gray 2010, pp. 9, 14; Johnson 2011, pers. comm.). In California, mechanical treatment has limited the spread of *P. arundinacea* in ponds and wetlands adjacent to water howellia occurrences, and chemical treatment is further reducing the size of *P. arundinacea* patches (Johnson 2011, 2017, pers. comm.). Similarly, consistent suppression of *P. arundinacea* at Lewis-McChord in Washington has reduced patch sizes of *P. arundinacea* in the past (TNC 2006, p. 65; Engler 2008, pers. comm.; Gilbert 2008, pers. comm.). Currently, no suppression efforts are underway at Lewis-McChord, due to little change in *P. arundinacea* distribution and the risk of harming water howellia plants in the process (Gilbert 2017, pers. comm.). In Idaho, the success of suppression efforts to limit abundance and distribution of *P. arundinacea* were mixed (Lichthardt and Gray 2010, p. 9). However, once suppression efforts were stopped, distribution and abundance of *P. arundinacea* appeared to vary more with fluctuating environmental conditions than with the presence of suppression effort (Lichthardt and Gray 2010, p. 9). No suppression efforts to control or eradicate *P. arundinacea* on the Turnbull Refuge in Washington are currently underway; the species is present, but trends indicate variability in abundance with fluctuating environmental conditions (Rule 2009, 2013a, 2017, pers. comm.). No suppression efforts of *P. arundinacea* have been attempted in Montana.

A. calamus was identified by the State of Idaho as an invasive species that may be displacing water howellia at one location (Idaho Department of Fish and Game (IDFG) 2016, p. 3). Monitoring at this location has been ongoing since 1999, and water howellia has not been observed since 2001 (Lichthardt and Pekas 2017, p. 2). However, we are unaware of any other water howellia occurrences being affected by *A. calamus.* As a result, *A. calamus* is unlikely to become a threat to water howellia.

Invasive plants can be aggressive and quickly displace natives in some situations. While there are some small sites that may have been completely or partially overtaken by invasive plants, water howellia metapopulations appear to be holding their own in the face of invasive species. This conclusion is reinforced by *P. arundinacea* coexisting with extant water howellia occurrences; large-scale displacement of water howellia by *P. arundinaceae* is not occurring in any of the metapopulations (Swan Valley, MT; Turnbull Refuge and Lewis-McChord, Washington), even in the absence of suppression efforts. Given the absence of displacement of water howellia by *P. arundinacea* within the three metapopulations of water howellia, and the success of existing suppression efforts where they have been applied, we do not consider *P. arundinacea* to be a significant threat to water howellia. We are also unaware of any information indicating that any other invasive species likely pose a threat to water howellia.

Land Management Activities

Land management activities that cause disturbance to vegetation surrounding water howellia occurrences were identified as a threat to the species in the 1994 final listing rule (59 FR 35860; July 14, 1994). Previous modeling efforts suggested that these activities, singularly or in combination, could result in a loss of vegetation at the pond fringe, disrupting the hydrological cycle and negatively impacting the phenology of water howellia (Reeves and Woessner 2004, pp. 10, 15). However, more recent evidence indicates that effects from land management activities are no longer a threat to the species.

Most land management activities that could disturb vegetation surrounding water howellia occurrences on State and Federal land are now prohibited. For example, land management activities that could disturb vegetation within 300 ft (91 m) of water howellia occurrences on USFS lands in Montana and California are typically not allowed because of standards and guidelines to protect the plant included in USFS Forest Plans (USFS 1995, p. IV–32; USFS 1997, p. 17; Johnson 2013, pers. comm.). Limited activities (including prescribed fire) may be allowed within the 300-ft (91-m) buffer, but only if needed to maintain the integrity of the buffer (USFS 1997, p. 17; Johnson 2013, pers. comm.). As a result of these actions, abundance and distribution of water howellia have remained stable in Montana's Swan Valley from 1978 to 2014 (Pipp 2017, p. 14). The Flathead National Forest (FNF) in Montana developed a conservation strategy for water howellia on USFS lands in 1994, and a second edition was finalized in 1997 (USFS 1997, entire). Additionally, the FNF amended their Land and Resource Management Plan (LRMP) in 1996, to provide measures specific to the conservation and recovery of water howellia (USFS 1996, entire). On State land in Montana, clear-cutting of timber and burning are prohibited within defined buffers surrounding waterbodies (Montana Code Annotated, p. 1). In Washington, wetlands containing water howellia on the Turnbull Refuge are buffered by the distance from mechanical thinning and prescribed fire used in treating conifer encroachment (Rule 2009, pers. comm.). Timber harvest and prescribed fire were not identified as potential threats to other water howellia occurrences in Washington (USDOD 2006, entire; USDOD 2012, entire; USDOD 2017a, entire; Anderson 2013, pers. comm.; Gilbert 2013, 2017, pers. comm.), or occurrences in Oregon or Idaho (Currin 2013, pers. comm.; USFWS 2009, entire; IDFG 2016, entire).

Some disturbance of vegetation surrounding water howellia occurrences from land management activities occurred historically, prior to existing guidelines and standards in Federal land management plans. For example, in Montana's Swan Valley, historical disturbances caused from land management activities (*e.g.,* timber harvest, thinning, prescribed fire, road building, and grazing) have occurred in

vegetated buffers surrounding many of the existing water howellia occurrences (Pipp 2017, p. 6). However, 79 percent of existing water howellia occurrences in the Swan Valley have experienced at least one historical disturbance event in the surrounding vegetation and are still present, suggesting some tolerance of water howellia to buffer disturbance. In addition, abundance or distribution of water howellia in the Swan Valley has remained stable, despite these historical disturbances from land management activities (Pipp 2017, p. 14). Further, despite experiencing a stand-replacing fire in 2003, water howellia occurrences occurring in the Crazy Horse area of the Swan Valley continue to persist; buffer vegetation appears to have recovered, and hydrology is adequately functioning (Pipp 2017, pp. 14–15).

The effects of historic road building within vegetated buffers surrounding water howellia occurrences have largely been mitigated on Federal and State lands. Guidance established in the FNF LRMP and FNF conservation strategy for water howellia have resulted in the stabilization of roads to reduce sedimentation where they exist within 300 ft (91 m) of water howellia ponds in Montana (USFS 2001, p. II–46; USFS 1997, p. 18). No effects of historic roads occurring within vegetated buffers on water howellia in the Swan Valley were found in a recent analysis (Pipp 2017, p. 16). Similarly, in California, small spur roads are being closed and hydrologically stabilized in areas occupied by water howellia on the Mendocino National Forest (MNF) to minimize anthropogenic contribution to landscape instability per direction in the MNF LRMP (USFS 1995, p. III–26; Johnson 2008, pers. comm.). These conservation measures appear to be working in California, as all seven known occurrences of water howellia are still extant. In Idaho, the Idaho Transportation Department (ITD) is to avoid adverse effects to wetlands during project implementation, and a Best Management Practices Manual identifies measures to minimize any potential effects during project implementation (ITD 2014, entire; ITD 2017, p. 1). The State of Idaho identified two water howellia occurrences within 98 ft (30 m) of an established highway and expressed concern about indirect effects of road work resulting in sedimentation and, of less concern, potential removal of shade (IDFG 2016, p. 4). However, we have no information of any potential effects that road work may pose to this population. Roads were not cited as a threat to water howellia occurrences in Washington or Oregon (USDOD 2006, entire; USDOD 2012, entire; USDOD 2017a, entire; USFWS 2007, entire; USFWS 2010; entire; Anderson 2013, pers. comm.; Currin 2013, pers. comm.).

Land management activities (*e.g.,* timber harvest, thinning, road building, grazing, and prescribed fire) that disturb vegetation surrounding water howellia occurrences were once considered a threat to the species. However, most land management activities that have the potential to disturb surrounding vegetation are prohibited by land management plans or other Federal or State policy. Some of these prohibitions were put in place a result of the species being listed, but will remain in effect for the duration of the land management plan or other policy, even if the species is delisted. Where disturbance of vegetation from land management activities has occurred, water howellia has shown some tolerance for disturbance and no downward trend in abundance or distribution. Given that all three metapopulations currently have conservation measures in place to avoid vegetative buffer disturbance from land management activities and that water howellia has shown some tolerance to disturbance when it occurs, we do not consider land management activities to be a significant threat to water howellia.

Trampling by Domestic Livestock

Trampling of water howellia by domestic livestock was cited as a threat in the 1994 final listing rule for the species (59 FR 35860; July 14, 1994). Direct effects of plant crushing, seed bank disturbance, and alterations to substrate are likely to occur when livestock enter and exit ponds and wetlands. In addition, increased nutrient loading may be an indirect effect of livestock occupancy in and near water howellia habitat. Many water howellia occurrences are within habitats actively used by livestock. However, the level of livestock-caused disturbance that water howellia can withstand is not known and likely varies with site-specific conditions, as well as timing, severity, and duration of cattle use of occupied water howellia habitat.

The effects of trampling on water howellia occurrences on Federal and State land have largely been mitigated with fencing, cattle barricades, elimination of grazing in some areas occupied by water howellia, or limitations on the duration of time livestock have access to sensitive pond and wetland habitats (USFS 2002, p. 6; Mincemoyer 2005, p. 11; Johnson 2008, 2013, pers. comm.; Frymire 2017, pers.comm.). In Montana, analyses of monitoring data spanning nearly 30 years have concluded that despite some grazing in occupied habitat, the presence of water howellia has not been affected (Pipp 2017, p. 17).

Although no causal link was made between grazing levels and the probability of water howellia presence in the Pipp (2017) analysis, it appears that management actions implemented concurrently with grazing have provided protections to water howellia habitat and allowed the species to be conserved in Montana's Swan Valley (Pipp 2017, p. 17). In California, specific grazing regimes near five occupied ponds within an active grazing allotment on National Forest land appear to be effective; monitoring indicates no effects to water howellia occurrences from livestock trampling (Johnson 2013, pers. comm.). Two other water howellia occurrences in California are within inactive grazing allotments, where livestock are not currently present and not expected to be present in the future (Johnson 2013, 2017, pers. comm.). Trampling is not reported as a threat in Washington, Idaho, or Oregon (USDOD 2006, entire; USDOD 2017a, entire; USFWS 2007, entire; USFWS 2010, entire; Currin 2013, pers. comm.; IDFG 2016, entire). It is unknown where grazing may occur on the 37 occurrences on private property. Therefore, the extent of trampling and other livestock-related alterations to water howellia habitat on these private lands is unknown. However, potential trampling effects from livestock on Federal and State land have been largely mitigated.

Trampling of water howellia by domestic livestock is not a threat to the species on Federal or State land at current grazing levels because of mitigation measures being implemented, including riparian fencing, cattle guards, and timely removal or relocation of livestock from the sensitive pond and wetland habitats. We have no information indicating levels of livestock use (and thus potential trampling) will increase beyond current levels in the future. The severity and frequency of trampling of water howellia occurrences on private land are unknown, but as significantly fewer water howellia occurrences are known from private lands, these impacts are likely not significant at the species level. We conclude, based on the available information, that trampling by domestic livestock is not a significant threat to water howellia.

Habitat Loss From Urbanization and Dam Construction

Habitat loss from urbanization and dam construction occurred historically,

particularly in Oregon, and was considered a threat to water howellia at the time of listing in 1994. However, additional habitat loss from urbanization and dam construction is no longer a threat to the species because conservation strategies implemented following listing and increased Federal ownership now provide additional protections (see *Conservation Efforts,* above).

Direct habitat loss from urbanization and dam construction occurred along the Columbia River in Oregon, and water howellia was thought to be extirpated from that area prior to 2015 (USFWS 2017, entire; Norman 2010, pers. comm.). However, since then, two occurrences of water howellia have been located in the Portland, Oregon, metro area (ORBIC 2017, unpaginated).

Most of the water howellia occurrences on corporate or private lands in Montana were previously owned by Plum Creek Timber. In 2007, approximately 67,000 ac (27,000 ha) of Plum Creek land in the Swan Valley were sold to The Nature Conservancy (TNC) and Trust for Public Land; ownership was then transferred to either the USFS or the State of Montana (Swan Valley Connections 2017, entire). The 47 water howellia occurrences and potential habitat that were formerly on Plum Creek land are now protected from urbanization through either the FNF LRMP (USFS 1997, entire) or State agency direction for managing timberlands (DNRC 1996, p. 1). The FNF LRMP mandates avoidance of disturbance, including urbanization, in forested buffers of a minimum of 300 ft (91 m) from water howellia occurrences. The State of Montana manages its timberlands for long-term revenue and biodiversity (DNRC 1996, p. 2) and not for short-term revenue from selling timbered State lands and the potential urbanization that may follow.

It is unknown if historical habitat loss occurred in California; however, most known occurrences of water howellia are within USFS lands, including some within designated wilderness areas (Johnson 2013, pers. comm.). Therefore, no current or future threat of habitat loss from urbanization is expected because any disturbance of vegetated buffers surrounding water howellia ponds is prohibited under the LRMP unless it is necessary to promote natural ecological and hydrological function (USFS 1995, pp. IV–19, 35). It is unknown how urbanization has affected the 37 water howellia occurrences on private land, but because there are significantly fewer occurrences known from private lands, these impacts are likely not significant at the species level.

In sum, habitat loss from urbanization and dam construction occurred historically, particularly in Oregon, but is no longer considered a significant threat. In Oregon, recent new discoveries of water howellia suggest that the species has been able to remain extant on the landscape where it was once considered extirpated. In areas surrounding the extant, larger metapopulations, habitat loss from urbanization and dam construction is not considered a threat to the species because of conservation strategies and land transfers implemented in Montana (USFS) and Washington (USDOD and USFWS). Further, known habitat in California is largely within USFS lands, including designated wilderness; thus, there is no significant threat of habitat loss from urbanization or dam construction in California.

Summary of Factor A

The following stressors warranted consideration as possible current or future threats to water howellia under Factor A: Invasive species, land management activities, trampling by domestic livestock, and direct habitat loss from urbanization or dam construction (59 FR 35860; July 14, 1994). However, these stressors have not occurred to the extent anticipated at the time of listing in 1994, or the stressors are being adequately managed, or the species is tolerant of the stressor as described below.

- Suppression efforts directed at *P. arundinacea* have resulted in some success. Furthermore, water howellia occupies a habitat niche that *P. arundinacea* appears unable to tolerate. Consequently, water howellia occurrences are not currently being displaced by *P. arundinacea* and we have no data to suggest that they are being displaced by other invasive species.
- Land management plans and conservation management strategies have been adopted by Federal and State agencies to mitigate the effects of land management activities on water howellia and are in place for all three metapopulations. These plans vary in duration, but are mandated by Federal and State law and are expected to continue to provide protections to water howellia habitat into the future, even if the species is delisted.
- The installation of riparian fencing and cattle barricades and the implementation of specific grazing routines have effectively mitigated the effects of trampling on water howellia.
- The extant metapopulations, as well as most occurrences in California, are largely managed by Federal agencies that have conservation strategies in place. Therefore, neither urbanization nor dam construction is a threat to water howellia.
- Limited information is available regarding the 37 occurrences (12 percent of known occurrences) that occur on private property. Due to the low number of occurrences on private land relative to Federal and State land, impacts are likely, not significant at the species level.

Therefore, based on the available information, we do not consider there to be any significant threats related to the present or threatened destruction, modification, or curtailment of habitat or range of water howellia.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Overutilization, for any purpose, was not considered a threat in the final rule to list water howellia (59 FR 35860; July 14, 1994). We are not aware of any current utilization of water howellia for commercial, recreational, scientific, or educational purposes. Regarding future utilization, interest has been expressed by the Valencia Wetland Mitigation Bank in Priest River, Idaho, to collect seed via soil plugs from vigorous water howellia occurrences for use in establishing new occurrences where appropriate habitat exists (Wiechmann 2014b, entire). Initially, a harvest of 5 to 7 soil plugs from other Idaho occurrences has been proposed. It is unclear how ''vigorous'' populations have been defined in this context, although any proposed collection of soil plugs would have to be permitted by the Service, assuming a Federal nexus. The proposed project would be beneficial if it created another occurrence of water howellia in northern Idaho or had educational value. We are not aware of any other current or future plans for utilization of the species. Therefore, based on the available information, we find that there are no significant threats to water howellia related to overutilization for commercial, recreational, scientific, or educational purposes.

C. Disease or Predation

Predation (herbivory) on water howellia by domestic livestock was considered a threat in the final rule to list the species (59 FR 35860; July 14, 1994). As described in more detail above under the Factor A discussion, grazing is limited within the species' habitat, and the persistence of water howellia in ponds accessible to livestock in the Swan Valley metapopulation has not been affected

(Pipp 2017, p. 17). As a result, we conclude that predation does not affect the species throughout its range at the population or species level. We have no information suggesting levels of livestock grazing will increase in the future. We are not aware of any issues or potential stressors regarding disease or insect predation. Therefore, based on the available information, we do not consider there to be any significant threats to water howellia from disease or predation.

D. The Inadequacy of Existing Regulatory Mechanisms

Under this factor, we examine whether existing regulatory mechanisms are inadequate to address the threats to water howellia discussed under other factors. Section 4(b)(1)(A) of the Act requires the Service to take into account ''those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such species.'' In relation to Factor D under the Act, we interpret this language to require us to consider relevant Federal, State, and Tribal laws, regulations, and other such mechanisms that may minimize any of the threats we describe in the threats analyses under the other four factors or otherwise enhance conservation of the species. We give the strongest weight to statutes and their implementing regulations and to management direction that stems from those laws and regulations; an example would be State governmental actions enforced under a State statute or constitution or Federal action under the statute.

For currently listed species, we consider the adequacy of existing regulatory mechanisms to address threats to the species absent the protections of the Act. Therefore, we examine whether other regulatory mechanisms would remain in place if the species were delisted, and the extent to which those mechanisms will continue to help ensure that future threats will be reduced or eliminated.

In our discussion under Factors A, B, C, and E, we evaluate the significance of threats as mitigated by any conservation efforts and existing regulatory mechanisms. Where threats exist, we analyze the extent to which conservation measures and existing regulatory mechanisms address the specific threats to the species. Regulatory mechanisms, if they exist, may reduce or eliminate the impacts from one or more identified threats.

Although inadequacy of existing regulatory mechanisms was not specifically identified as a threat to water howellia at the time of listing in 1994, we did mention the very limited number of protections that existed for the species (59 FR 35860, July 14, 1994, see p. 59 FR 35862). Specifically, we discussed the designation of water howellia as a sensitive species by the USFS and referred to wetland protection measures provided under section 404 of the Federal Clean Water Act (33 U.S.C. 1251 *et seq.*), Food Security Act (16 U.S.C. 3801 *et seq.*), and some State laws.

I. Federal

Clean Water Act

The Clean Water Act (CWA) was designed, in part, to protect surface waters of the United States from unregulated pollution from point sources. The CWA provides some benefit to water howellia through the regulation of discharge into surface waters through a permitting process; however, the historical threats to water howellia habitat have not typically been associated with point sources of pollution, and current information does not point to these as threats for occurrences today.

Under section 404 of the CWA, the U.S. Army Corps of Engineers (USACE) regulates the discharge of fill material into waters of the United States, including wetlands. In general, the term ''wetland'' refers to areas meeting the USACE's criteria of hydric soils, hydrology (either sufficient annual flooding or water on the soil surface), and hydrophytic vegetation (plants specifically adapted for growing in wetlands). Some habitat occupied by water howellia is considered isolated waters under the CWA. As a result of various Supreme Court decisions, the CWA jurisdiction over isolated waters has been uncertain and generally determined case-by-case. Further, federal agencies are currently considering removing isolated waters from CWA jurisdiction (82 FR 34899; July 27, 2017). Thus, the extent of water howellia receiving the protections of the CWA now and in the future is uncertain. However, the protections of the CWA to water howellia habitat that is under CWA jurisdiction are expected to remain, without the provisions of the Act.

Food Security Act

The Food Security Act was designed, in part, to protect wetlands by removing incentives for farmers to convert wetlands into crop fields. The Food Security Act likely provides some indirect protection of potential water howellia habitats on private land, but not those on Federal or State land. Although there are no data directly linking the Food Security Act and water howellia, historically, it has been demonstrated that the Food Security Act has had positive impacts on wetland function (Gleason *et al.* 2011, p. S65). Although the future of the Food Security Act in its current form is uncertain, any protections afforded to wetlands would infer benefit to water howellia should the species be present.

National Environmental Policy Act

Environmental review of potential effects of Federal actions is mandated under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). When NEPA analysis reveals significant environmental effects, the Federal agencies must disclose those effects to the public and consider mitigation that could offset the effects. These mitigations usually provide some protections for listed species. However, the NEPA does not require that adverse impacts be mitigated, only disclosed. Therefore, it is unclear what level of protection would be conveyed to water howellia through NEPA, in the absence of protections under the Act.

National Forest Management Act

Federal activities on USFS lands are subject to the National Forest Management Act of 1976 (NFMA; 16 U.S.C. 1600 *et seq.*). The NFMA requires the development and implementation of resource management plans that guide the maintenance of ecological conditions that support natural distributions and abundance of species and not contribute to their extirpation.

Water howellia is given consideration as a federally listed species by Federal agencies, and, if delisted, it would likely continue to be included on the sensitive species list for the USFS, as it was at the time of listing (59 FR 35860; July 14, 1994). Under the 2012 National Forest System land planning rule (77 FR 21162; April 9, 2012), the status given is ''species of conservation concern,'' and direction is given to provide ecological conditions necessary to maintain viable populations of species of conservation concern (Hayward *et al.* 2016, p. 8). Currently, the FNF in Montana is in the process of revising their LRMP, and the MNF in California anticipates revising their plan in the near future. The USFS anticipates that water howellia will be given the status of ''species of conservation concern'' in both plans, even if the species is delisted (Shelley 2016, pers. comm.; Johnson 2017, pers. comm.). Special status species policies (USFS manual, section 2670, p. 4) detail the need to conserve these species and the

ecosystems on which they depend on using all methods and procedures necessary to improve the condition of these species and their habitats to a point where their special status recognition is no longer warranted. The FNF adopted a plan specific to guiding conservation of the known water howellia occurrences on Federal land in Montana, and guidance provided in the MNF LRMP has resulted in the use of buffer strips to protect riparian species and function surrounding occupied ponds in California. Both the FNF plan and MNF policy are expected to continue to be implemented if we delist water howellia, based on discussions with the USFS (see *Conservation Efforts* and A. *The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range,* above).

Federal Land Policy and Management Act

Similar to NFMA, the Federal Land Policy and Management Act (43 U.S.C. 1701 *et seq.*) applies to the Bureau of Land Management (BLM) with regard to the conservation and use of public lands under their management. Water howellia is given consideration as a federally listed species by Federal agencies, and if delisted, would likely be included on the sensitive species list for the BLM as it was at the time of listing (59 FR 35860; July 14, 1994). Special status species policies (BLM manual, section 6840, p. 37) detail the need to conserve these species and the ecosystems on which they depend using all methods and procedures which are necessary to improve the condition of special status species and their habitat to a point where their special status recognition is no longer warranted. The one occurrence of water howellia in Washington on BLM land makes the existence of the plant vulnerable to localized actions. However, application of best management practices (BMPs) consistent with resource management plan (RMP) direction appears to have maintained this occurrence since 1993 (Frymire 2017, pers. comm.). The implementation of BMPs is expected to continue in the absence of protections under the Act because the current RMP (which requires BMPs) will still be the guiding land management document into the future.

Sikes Act

Water howellia occurrences and habitats on Federal military installations (Lewis-McChord in Pierce County, Washington) are managed under an INRMP (USDOD 2006, pp. 4–6; USDOD 2017, p. X–X) authorized by the Sikes Act (16 U.S.C. 670a *et seq.*). Protections for water howellia habitat in the INRMP include restrictions on motorized equipment and military training activities in wetlands occupied by water howellia. In concert with the INRMP, Lewis-McChord has developed an Endangered Species Management Plan for water howellia that establishes conservation goals, management prescriptions, and monitoring efforts (USDOD 2012, entire). These protections would be expected to continue in the absence of protections under the Act because the Sikes Act mandates USDOD to conserve and rehabilitate wildlife, fish, and game on military reservations.

National Wildlife Refuge System Improvement Act

As directed by the National Wildlife Refuge System Improvement Act (Pub. L. 105–57, 16 U.S.C. 668dd), Refuge managers have the authority and responsibility to protect native ecosystems, fulfill the purposes for which an individual refuge was founded, and implement strategies to achieve the goals and objectives stated in management plans. For example, Turnbull Refuge (Spokane County, Washington) includes extensive habitat for water howellia, including 35 known occupied sites. The National Wildlife Refuge's comprehensive conservation plan (CCP) is a land management plan with a 15-year term that directs protection of these habitats and identifies specific objectives relative to research and monitoring, invasive species management, and education regarding water howellia (USFWS 2007, p. 2–22). Given the 15-year timeframe of CCPs, these protections would remain in place until 2022 regardless of water howellia Federal listing status.

Ridgefield National Wildlife Refuge in western Washington finalized a CCP in 2010, which included several conservation strategies for water howellia. These strategies included allowing natural flood-up and various methods (*e.g.,* mechanical, biological, chemical) for invasive species control (USFWS 2010, pp. 2–37, 2–54). Given the 15-year timeframe of CCPs, protections outlined in the Ridgefield National Wildlife Refuge CCP for water howellia are expected to remain in place until 2025 regardless of water howellia Federal listing status.

In addition to specific protections for water howellia provided under CCPs, the species is permanently protected by the mission of all National Wildlife Refuges to manage their lands and waters for the conservation of fish, wildlife, and plant resources and their habitats.

II. State

Montana Streamside Management Zone Act

The Montana Streamside Management Zone Act (SMZ), in part, designates vegetated buffer strips around surface waters, including wetlands adjacent to streams (and thus potential water howellia habitat), within the boundaries of timber harvest units in Montana. The SMZ law covers Federal, State, and private commercial timber practices (Montana Code Annotated 2009, p. 1). The SMZ law specifically prohibits slash fill of wetlands, off-road vehicle use, and clear cutting within 50 ft (15 m) of water bodies (Administrative Rules of Montana 2007, p. 7). There are no buffer strips designated for isolated wetlands (those not adjacent to a stream/river) under the SMZ and only voluntary restrictions on equipment travel through isolated wetlands. Although unclear, some water howellia occurrences in Montana's Swan Valley may occur in isolated wetlands. Thus, the direct loss of habitat or plants for a small number of occurrences from timber harvest activities is a possibility if water howellia plants occupy isolated wetlands within a timber harvest unit. However, audits of timber sale practices conducted by interdisciplinary review teams have consistently documented few violations of the SMZ law and generally high compliance (>90%) with voluntary regulations in the recent past (Montana DNRC 2016, entire). Thus, while there is potential for water howellia habitat to be lost for occurrences in isolated wetlands, the magnitude of the stressor appears small. As State law, the protections of the SMZ are expected to continue if we delist water howellia.

Montana State Comprehensive Fish and Wildlife Strategy

This conservation strategy identifies focus areas, community types, species, and inventory needs along with their conservation concerns and strategies in Montana (Montana FWP 2005, p. 170). The emphasis of the strategy is conserving a broad range of species and habitats, not just game species and their habitats. The Swan Valley (site of the Montana water howellia metapopulation) is designated a ''Terrestrial Conservation Focus Area in Greatest Need.'' Multiple conservation strategies include riparian area conservation, conservation easement planning, sustainable land management practices, and weed control

partnerships. However, implementation of these conservation actions is dependent on State wildlife grants—funds that have an uncertain future. For this reason, it is unlikely these conservation strategies could be relied upon to protect the 14 ponds occupied by water howellia on State land in Montana if we delist water howellia.

Washington Natural Heritage Plan

Washington State's Natural Heritage Plan identifies priorities for preserving natural diversity, including wetlands, in Washington State (Washington Department of Natural Resources (DNR) 2007, 2011, entire). The progressive plan aids Washington DNR in conserving key habitats that are currently imperiled or expected to be in the future. The prioritization of conservation efforts provided by this plan is expected to remain in place if we delist water howellia; however, the effects of plan implementation on water howellia would depend upon whether habitat for water howellia was part of a conservation effort.

Washington Forest Practices Act

Washington State's Forest Practices Act, and associated regulations and rules, (Washington Annotated Code 2008, p. 30–3) provides protection of wetlands from the fill and cutting that could result from commercial timber harvest operations. Minimum buffers of 25 ft (8 m) are designated around ponds and wetlands inside timber sale boundaries, effectively prohibiting most harvest and all heavy equipment used in these areas. These buffers protect water howellia habitat from disturbance and minimize impacts to water quality. As State law, these protections are expected to remain in place if we delist water howellia.

Oregon Senate Bill (SB) 533/Oregon Revised Statute (ORS) 564

Oregon SB 533/ORS 564 requires non-Federal public agencies to protect State-listed plant species found on their lands (Oregon Revised Statute 2009, entire). Any land action on Oregon non-Federal public lands which results, or might result, in the taking of an endangered or threatened species requires consultation with the Oregon Department of Agriculture (ODA) staff. Removal of Federal protections for water howellia would remove State protection of the species under this statute since water howellia was never formally listed by ODA. However, protections are expected to remain in place due to other rare, sensitive plant species in the area inhabited by water howellia and the commitment of the Metro (Portland-area regional government) to protect the only known occurrences of water howellia in Oregon (Currin 2013, pers. comm.).

III. Summary of Factor D

As discussed above and under the other factors, conservation measures and existing regulatory mechanisms (such as Federal and State land management plans and conservation strategies) have minimized, and are continuing to minimize, the previously identified threats of invasive species, land management activities (primarily timber harvest and road building), trampling by domestic livestock, and direct habitat loss from urbanization or dam construction to all three water howellia metapopulations. As indicated above, we anticipate that the majority of these mechanisms will remain in place regardless of the species' Federal listing status. Consequently, we find that conservation measures, along with existing regulatory mechanisms, are adequate to address these specific stressors.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Factor E requires the Service to consider any other factors that may be affecting water howellia. Under this factor, we discuss: (1) The narrow ecological requirements of the species in the context of climate change, (2) small population size/low genetic diversity, and (3) the potential for cumulative effects of stressors.

Narrow Ecological Requirements/ Climate Change

Here we consider the narrow ecological requirements of water howellia in the context of observed or projected changes in climate. The 1994 listing rule (59 FR 35860; July 14, 1994) did not discuss the potential impacts of climate change on water howellia. The terms ''climate'' and ''climate change'' are defined by the Intergovernmental Panel on Climate Change (IPCC). The term ''climate'' refers to the mean and variability of relevant quantities (*i.e.,* temperature, precipitation, wind) over time, with 30 years being a typical period for such measurements, although shorter or longer periods also may be used (IPCC 2014, pp. 119–120). The term ''climate change'' thus refers to a change in the mean or variability of one or more measures of climate (*e.g.,* temperature or precipitation) that persists for an extended period, typically decades or longer, whether the change is due to internal processes or anthropogenic changes (IPCC 2014, p. 120).

Scientific measurements spanning several decades demonstrate that changes in climate are occurring. In particular, warming of the climate system is unequivocal, and many of the observed changes in the last 60 years are unprecedented over decades to millennia (IPCC 2014, p. 2). The current rate of climate change may be as fast as any extended warming period over the past 65 million years and is projected to accelerate in the next 30 to 80 years (National Research Council 2013, p. 5). Thus, rapid climate change is adding to other sources of extinction pressures, such as land use and invasive species, which will likely place extinction rates in this era among just a handful of the severe biodiversity crises observed in Earth's geological record (AAAS 2014, p. 7).

Examples of various other observed and projected changes in climate and associated effects and risks, and the basis for them, are provided for global and regional scales in recent reports issued by the IPCC (2013c, 2014), and similar types of information for the United States and regions within it can be found in the National Climate Assessment (Melillo *et al.* 2014, entire).

Results of scientific analyses presented by the IPCC show that most of the observed increase in global average temperature since the mid-20th century cannot be explained by natural variability in climate alone and is ''very likely'' (defined by the IPCC as 95 percent or higher probability) due to the observed increase in greenhouse gas (GHG) concentrations in the atmosphere as a result of human activities, particularly carbon dioxide emissions from fossil fuel use (IPCC 2014, pp. 47–48; see also Walsh *et al.* 2014, pp. 20–24). Further confirmation of the role of GHGs comes from analyses by Huber and Knutti (2012, p. 31), who concluded GHGs contributed 1.5 degrees Fahrenheit (0.85 degrees Celsius) of warming since the mid-20th century and that it was extremely unlikely that internal variability contributed.

Scientists use a variety of climate models, which include consideration of natural processes and variability, as well as various scenarios of potential levels and timing of GHG emissions, to evaluate the causes of changes already observed and to project future changes in temperature and other climate conditions. Model results yield very similar projections of average global warming until about 2030. Thereafter, the magnitude and rate of warming vary through the end of the century depending on the assumptions about population levels, emissions of GHGs, and other factors that influence climate

change. Thus, absent extremely rapid stabilization of GHGs at a global level, there is strong scientific support for projections that warming will continue through the 21st century, and that the magnitude and rate of change will be influenced substantially by human actions regarding GHG emissions (IPCC 2013b, 2014; entire).

Global climate projections are informative, and in some cases, the only or the best scientific information available for us to use. However, projected changes in climate and related impacts can vary substantially across and within different regions of the world (*e.g.,* IPCC 2013c, 2014; entire) and within the United States (Melillo *et al.* 2014, entire). Therefore, we use ''downscaled'' projections when they are available and have been developed through appropriate scientific procedures, because such projections provide higher resolution information that is more relevant to spatial scales used for analyses of a given species (see Glick *et al.* 2011, pp. 58–61, for a discussion of downscaling).

Various changes in climate may have direct or indirect effects on species. These may be positive, neutral, or negative, and they may change over time, depending on the species and other relevant considerations, such as interactions of climate with other variables like habitat fragmentation (IPCC 2014, p. 67; for additional examples, see Franco *et al.* 2006; Forister *et al.* 2010; Galbraith *et al.* 2014; Chen *et al.* 2011; Bertelsmeier *et al.* 2013, entire). Identifying likely effects often involves aspects of climate change vulnerability analysis. Vulnerability to climate change has three principle components: Sensitivity, exposure, and adaptive capacity (Glick *et al.* 2011; Dawson *et al.* 2011). Sensitivity is the degree to which a system is affected, either adversely or beneficially, by climate-related stimuli (U.S. CCSP 2008b as cited by Glick *et al.* 2011). Exposure is the nature and degree to which a system is exposed to significant climate variations (IPCC 2001b as cited by Glick *et al.* 2011). Adaptive capacity is the ability of a system to adjust to climate change (including climate variability and extremes) to moderate potential damages, to take advantage of opportunities, or to cope with the consequences (IPCC 2001b as cited by Glick *et al.* 2011). There is no single method for conducting such analyses that applies to all situations (Glick *et al.* 2011, p. 3). We use our expert judgment and appropriate analytical approaches to weigh relevant information, including uncertainty, in our consideration of various aspects of climate change.

As is the case with all stressors that we assess, even if we conclude that a species is currently affected or is likely to be affected in a negative way by one or more climate-related impacts, it does not necessarily follow that the species meets the definition of an ''endangered species'' or a ''threatened species'' under the Act. If a species is listed as endangered or threatened, knowledge regarding the vulnerability of the species to, and known or anticipated impacts from, climate-associated changes in environmental conditions can be used to help devise appropriate strategies for its recovery.

Climate change trends predicted for the Pacific Northwest (Oregon, Washington, Idaho, and Montana) broadly consist of an increase in annual average temperature; an increase in extreme precipitation events; and, with less certainty, variability in annual precipitation (Dalton *et al.* 2013, pp. 31–38, Figure 1.1; Snover *et al.* 2013, pp. 5–1–5–4). Lee *et al.* (2015) describe potential hydrological changes in response to predicted climate change on montane wetlands in the Pacific Northwest. These observations appear to vary with local conditions and include earlier drawdown, more rapid drying out in the summer, and reduced minimum water levels. We do not have a clear understanding of how water howellia responds to a diversity of temperature and precipitation changes, although the species has persisted in spite of rising temperatures and increasing variability in precipitation across its range over the past several decades (Shelly *et al.* 2016, entire).

A potential increase in precipitation as a result of climate change may affect the species in several ways. First, increases in precipitation may increase the surface area of existing ponds and wetlands, or create new ones. These new habitats would be available for colonization by water howellia and could increase the range and resiliency of the species. However, new habitats would also be available to invasive species such as *P. arundinacea* and may also promote their expansion on the landscape. An important factor in increased habitat would likely be the site-specific conditions within each habitat; new habitat with deeper water and longer periods of inundation would likely preclude the establishment of *P. arundinacea* and be beneficial to water howellia. Conversely, the creation of shallower habitat may favor *P. arundinacea.* Another possible effect of increased precipitation may be the alteration of the hydrologic cycle of water howellia habitats. Specifically, these habitats may fill earlier (with heavier spring rainfall) and dry later in the season than they did historically, thereby reducing the timing window for air exposure needed for seed germination of water howellia in late summer and autumn.

Alternatively, a potential decrease in precipitation as a result of climate change also may affect water howellia in several ways. Decreases in precipitation may result in water levels that are too low to support the submergent flower production. Additionally, earlier drawdowns and the faster receding of water in these wetlands as a result of decreased precipitation may ultimately limit the continued persistence of ephemeral ponds. This could provide an opportunity for expansion of *P. arundinacea* and other invasive species. On the other hand, amplified drying may allow for increased germination and expansion of water howellia. Another scenario of decreased precipitation is that the hydrological cycles could be altered in a way that would favor water howellia. Ponds that were previously perennial could potentially become ephemeral in nature, providing the wetting and drying cycle necessary for water howellia reproduction and, consequently, additional habitat for the species to occupy. Again, the site-specific conditions for each habitat would be an important factor.

Changes in precipitation from snow to rain may also affect water howellia, particularly in the southernmost occurrences (*e.g.,* California) (California DWR 2013, p. 22). More precipitation falling as rain rather than snow would likely alter the hydrologic cycle within these habitats. These alterations could include faster drying of wetlands than was observed historically, due to a lack of spring run-off from snow fields and increased annual air temperature. More frequent extreme precipitation events are predicted for California (California DWR 2013, p. 23). The effect of more extreme precipitation events on water howellia habitat in California is unclear, especially given the potential for interactions among precipitation and other environmental variables predicted to change (*e.g.,* reduced snowpack, increased annual air temperature).

The ability of water howellia to self-fertilize and produce seeds at both the early season submergent and later season emergent forms may be an advantage to surviving lengthened, shortened, or generally more inconsistent growing seasons than occurred historically. Seed production from both flower forms in one growing

season may increase the opportunity for surviving subsequent inclement years. It is uncertain how increases in water temperature and increased evaporation due to increased ambient temperatures would affect growth and reproduction of water howellia; however, climate conditions that restrict the dual seed production and seed banking could reduce the ability of water howellia to persist over time.

Associated wetland vegetation that positively contributes to suitable microclimates for water howellia could be altered by predicted variance in temperatures and precipitation. An increase in daily temperatures paired with a decrease in precipitation could potentially result in stressed and dying vegetation, which could result in an increased risk of wildfire, insect pathogens such as pine bark beetles, an increase in noxious or invasive weeds, and an increase in atmospheric carbon dioxide levels that could accelerate natural ecological succession. The loss of vegetation around ponds from wildfire or other events could accelerate sedimentation, resulting in the loss of water howellia occurrences. Montana and eastern Washington occurrences of water howellia could be more resilient to these processes than other occurrences because of their distribution over a larger landscape with many separate occurrences. Increasing temperatures combined with increased demand for ground and surface water for human development may compound negative impacts to water howellia in eastern Washington and northern Idaho. Climate-induced effects on water howellia may appear first in California, as these occurrences are at the southern edge of the known range. However, these effects may be buffered by the higher elevation (approximately 3,800 ft/1,158 m) at which the California occurrences are found compared to elsewhere in the range (western Washington: Approximately 15 ft/5m).

Predicted environmental changes resulting from climate change may have both positive and negative effects on water howellia, depending on the extent and type of impact and depending on site-specific conditions within each habitat type. The primary predicted negative effect is the alteration of hydrologic regimes potentially resulting in inconsistent growing seasons. This effect will likely be buffered by the ability of water howellia to produce seeds during both early and late seasons. Predicted environmental effects that may be positive for water howellia include increased habitat, seed dispersal, and species distribution in some areas, including within the three metapopulations due to predicted increases in precipitation across the northern range of the species (IPCC 2014, p. 61). The intact nature and current spatial arrangement (geographically diverse and at varying elevations) of the three large metapopulations will likely provide more resilience to climate change than the smaller, isolated occurrences. Effects of potential composition shifts in vegetation surrounding water howellia occurrences as a result of climate change are unknown.

In summary, climate change is affecting and will continue to affect temperature and precipitation events. The extent, duration, and impact of those changes are unknown, but could potentially increase or decrease precipitation in some areas. Water howellia may experience climate change-related effects in the future, most likely at the individual or local population level. Regional occurrences may experience some shifts. However, it is anticipated that the metapopulations important to the viability of the species would continue to persist because of resiliency due to geographic and elevational diversity. Available information indicates the species is adaptable to variable conditions. Therefore, based upon available information, we conclude that climate change is not a significant threat to water howellia.

Small Population Size/Low Genetic Diversity

The final rule to list water howellia (59 FR 35860; July 14, 1994) cited small population size and lack of genetic variation within and among occurrences as a contributor to its vulnerability. Small occurrences with low genetic diversity could limit a species' or population's ability to respond to novel changes in its environment, necessitating redundancy of occurrences across larger areas to increase the probability of survival. At the time of listing in 1994, the only genetic investigation of the species showed very low genetic diversity within and among occurrences in Washington and Montana (Lesica *et al.* 1988, p. 278). More current genetic results indicate greater genetic diversity within and among occurrences than previously thought; however, diversity is still relatively low (Brunsfeld and Baldwin 1998, p. 2; Schierenbeck and Phipps 2010, p. 5). Additionally, one genetic investigation documented that all occurrences are distantly related and that gene flow is likely occurring between the States (Schierenbeck and Phipps 2010, p. 6).

The relatively low genetic diversity of water howellia across its current range may limit the species' ability to respond to environmental changes. However, gene flow is occurring among occurrences, and the redundancy of smaller occurrences across the species' range may mitigate for reduced genetic plasticity within individual occurrences (*i.e.,* the lower genetic representation may be mitigated by higher geographic representation). The current spatial arrangement of small occurrences is favorable to the species' long-term persistence because these occurrences are at different elevations and within varying climatic regimes (see discussion under ''Narrow Ecological Requirements/Climate Change,'' above). Thus, we do not consider small population size or low genetic diversity to be a significant threat to water howellia.

Cumulative Effects of All Stressors

Many of the stressors faced by water howellia are interrelated and could work in concert with each other, resulting in a cumulative adverse effect on the species. For example, stressors discussed under Factor A that individually do not rise to the level of a threat could together result in habitat loss. Similarly, small population size in combination with stressors discussed under Factor A could present a potential concern.

Climate change is occurring across the range of the species, coinciding with all other identified stressors. As described previously, variations in climatic conditions may favor or preclude invasive species, depending on site-specific habitat factors. Also described previously, climate change may alter hydrological cycles. However, despite changing climate conditions, water howellia has persisted across its range. Analysis of nearly 30 years of data on water howellia occurrences in the Swan Valley indicates the species has persisted even with climate change interacting with other potential stressors (Pipp 2017, entire). This suggests that the cumulative effects of climate change and other stressors are not meaningful at the metapopulation level, nor at the species level. Nevertheless, we recognize that there are uncertainties associated with climate change predictions; ongoing management and monitoring of water howellia (via the PDM plan) is designed to detect potential future changes in the species' distribution and abundance.

There may be locations of water howellia occurrences where invasive species are present, and cattle have access to occupied ponds. Grazing may

limit the expansion of invasive species in these instances. Otherwise, we are not aware of particular locations within water howellia occurrences where multiple stressors occur. Also, we do not anticipate stressors to increase on federally managed lands, which afford protection to the species in the most occupied habitat. Furthermore, the documented increases in the abundance and distribution of the species since it was listed in 1994 do not support a conclusion that cumulative effects pose a threat to the species. Therefore, we conclude, based on the available information, that cumulative effects are not a significant threat to water howellia.

Summary of Factor E

Given the lack of threats within water howellia occurrences and increases in abundance and distribution since listing in 1994, we conclude that climate change, small population size and low genetic diversity, and cumulative effects are not significant threats to water howellia.

Proposed Determination of Species Status

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of ''endangered species'' or ''threatened species.'' The Act defines an ''endangered species'' as a species that is ''in danger of extinction throughout all or a significant portion of its range,'' and a ''threatened species'' as a species that is ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' The Act requires that we determine whether a species meets the definition of ''endangered species'' or ''threatened species'' because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence.

Determination of Status Throughout All of Water Howellia's Range

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to water howellia including invasive species (Factor A), land management activites (Factor A), trampling by domestic livestock (Factor A), direct habitat loss from urbanization or dam construction (Factor A), narrow ecological requirements of the species in the context of climate change (Factor E), predation (herbivory) by domestic livestock (Factor C), small population size/low genetic variation (Factor E), and cumulative effects of stressors (Factor E). Based on the best available information, and as described in our five-factor analysis, above, the identified stressors fall into one or more of the following categories:

- Stressors that have not occurred to the extent anticipated at the time of listing and existing information indicates that this will not change in the future (trampling by domestic livestock, predation (herbivory), direct habitat loss from urbanization).
- Stressors that are adequately managed and existing information indicates that this will not change in the future (invasive species, land management activities).
- Stressors for which the species is tolerant and existing information indicates that this will not change in the future (narrow ecological requirements, small population size/low genetic variation, climate change, cumulative effects).

Thus, our analysis of this information indicates that these stressors are not of sufficient imminence, intensity, or magnitude to indicate that water howellia is in danger of extinction or likely to become so within the foreseeable future throughout all of its range. Therefore, after assessing the best available information, we conclude that water howellia is not in danger of extinction throughout all of its range nor is it likely to become so in the foreseeable future.

Because we determined that water howellia is not in danger of extinction or likely to become so in the foreseeable future throughout all of its range, we will consider whether there are any significant portions of its range in which water howellia is in danger of extinction or likely to become so in the foreseeable future.

Determination of Status Throughout a Significant Portion of Water Howellia's Range

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range (SPR). Where the best available information allows the Services to determine a status for the species rangewide, that determination should be given conclusive weight because a rangewide determination of status more accurately reflects the species' degree of imperilment and better promotes the purposes of the Act. Under this reading, we should first consider whether the species warrants listing ''throughout all'' of its range and proceed to conduct a ''significant portion of its range'' analysis if, and only if, a species does not qualify for listing as either an endangered or a threatened species according to the ''throughout all'' language.

Having determined that the water howellia is not in danger of extinction or likely to become so in the foreseeable future throughout all of its range, we now consider whether it may be in danger of extinction or likely to become so in the foreseeable future in an SPR. The range of a species can theoretically be divided into portions in an infinite number of ways, so we first screen the potential portions of the species' range to determine if there are any portions that warrant further consideration. To do the ''screening'' analysis, we ask whether there are portions of the species' range for which there is substantial information indicating that: (1) The portion may be significant; and, (2) the species may be, in that portion, either in danger of extinction or likely to become so in the foreseeable future. For a particular portion, if we cannot answer both questions in the affirmative, then that portion does not warrant further consideration and the species does not warrant listing because of its status in that portion of its range. We emphasize that answering these questions in the affirmative is not a determination that the species is in danger of extinction or likely to become so in the foreseeable future throughout a significant portion of its range—rather, it is it is a step in determining whether a more detailed analysis of the issue is required.

If we answer these questions in the affirmative, we then conduct a more thorough analysis to determine whether the portion does indeed meet both of the SPR prongs: (1) The portion is significant and (2) the species is, in that portion, either in danger of extinction or likely to become so in the foreseeable future. Confirmation that a portion does indeed meet one of these prongs does not create a presumption, prejudgment, or other determination as to whether the species is an endangered species or threatened species. Rather, we must then undertake a more detailed analysis of the other prong to make that determination. Only if the portion does indeed meet both SPR prongs would the species warrant listing because of its status in a significant portion of its range.

At both stages in this process—the stage of screening potential portions to identify any portions that warrant further consideration and the stage of undertaking the more detailed analysis of any portions that do warrant further consideration—it might be more efficient for us to address the ''significance'' question or the ''status'' question first. Our selection of which question to address first for a particular portion depends on the biology of the species, its range, and the threats it faces. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the second question for that portion of the species' range.

For water howellia, we chose to evaluate the status question (*i.e.,* identifying portions where the water howellia may be in danger of extinction or likely to become so in the foreseeable future) first. To conduct this screening, we considered whether the threats are geographically concentrated in any portion of the species' range at a biologically meaningful scale. If a species is not in danger of extinction or likely to become so in the foreseeable future throughout all of its range and the threats to the species are essentially uniform throughout its range, then the species would not have a greater level of imperilment in any portion of its range than it does throughout all of its range and therefore no portions would qualify as an SPR.

We examined the following threats: Invasive species, land management activities, trampling by domestic livestock, direct habitat loss from urbanization or dam construction, narrow ecological requirements of the species in the context of climate change, predation (herbivory) by domestic livestock, small population size/low genetic variation, and the cumulative effects of these threats. We found no concentration of threats in any portion of the water howellia's range at a biologically meaningful scale. Since we found no portions of the species' range where threats are significantly concentrated or substantially greater than in other portions of its range, we did not identify any portions where the species may be in danger of extinction or likely to become so in the foreseeable future. Therefore, no portions warrant further consideration through a more detailed analysis, and the species is not in danger of extinction or likely to become so in the foreseeable future in any significant portion of its range. Our approach to analyzing SPR in this determination is consistent with the court's holding in *Desert Survivors* v. *Department of the Interior,* No. 16–cv–01165–JCS, 2018 WL 4053447 (N.D. Cal. Aug. 24, 2018).

Our review of the best available scientific and commercial information indicates that the water howellia is not in danger of extinction nor likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Therefore, we find that the water howellia does not meet the definition of an endangered species or a threatened species, and we propose to remove the species from the List.

Determination of Status

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to water howellia. After review and analysis of the information regarding stressors as related to the five statutory factors, we find that the ongoing stressors are not of sufficient imminence, intensity, or magnitude to indicate that this species is presently in danger of extinction throughout all or a significant portion of its range. Additionally, no threats exist currently, nor are any potential stressors expected to rise to the level, that would likely cause the species to become in danger of extinction in the foreseeable future throughout all or a significant portion of the species' range. Because the species is neither in danger of extinction now nor likely to become so in the foreseeable future throughout all or any significant portion of its range, the species does not meet the definition of an endangered species or threatened species under the Act. As a consequence of this determination, we find that water howellia no longer requires the protection of the Act, and we propose to remove the species from the Federal List of Endangered and Threatened Plants.

Effects of the Rule

This proposal, if made final, would revise 50 CFR 17.12(h) to remove water howellia from the Federal List of Endangered and Threatened Plants. Because no critical habitat was ever designated for this species, this rule will not affect 50 CFR 17.96.

The prohibitions and conservation measures provided by the Act, particularly through sections 7 and 9, would no longer apply to this species. Federal agencies would no longer be required to consult with the Service under section 7 of the Act in the event that activities they authorize, fund, or carry out may affect water howellia.

Post-Delisting Monitoring

Section 4(g)(1) of the Act requires us, in cooperation with the States, to implement a monitoring program for not less than 5 years for all species that have been delisted due to recovery. The purpose of this requirement is to develop a program that detects the failure of any delisted species to sustain itself without the protective measures provided by the Act. If at any time during the monitoring period, data indicate that protective status under the Act should be reinstated, we can initiate listing procedures, including, if appropriate, emergency listing.

We are proposing to delist water howellia based on new information we have received as well as conservation actions taken. Since delisting would be, in part, due to conservation taken by stakeholders, we have prepared a draft post-delisting monitoring (PDM) plan for water howellia. The draft PDM plan discusses the current status of the taxon and describes the methods proposed for monitoring if we delist the taxon. The draft PDM plan: (1) Summarizes the status of water howellia at the time of proposed delisting; (2) describes frequency and duration of monitoring; (3) discusses monitoring methods and potential sampling regimes; (4) defines what potential triggers will be evaluated to address the need for additional monitoring; (5) outlines reporting requirements and procedures; (6) proposes a schedule for implementing the PDM plan; and (7) defines responsibilities. It is our intent to work with our partners towards maintaining the recovered status of water howellia. We will seek public and peer reviewer comments on the draft PDM plan, including its objectives and procedures (see *Document availability* and Information Requested, above), with the publication of this proposed rule.

Required Determinations

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one

of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

National Environmental Policy Act

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), need not be prepared in connection with regulations pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, Government-to-Government Relations with Native American Tribal Governments (59 FR 22951), E.O. 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. We are aware of two water howellia occurrences that occur on tribal lands; we have notified the Tribes that may be affected by this proposed rule and offered government-to-government consultation.

References Cited

A complete list of all references cited in this proposed rule is available at *http://www.regulations.gov* at Docket No. FWS–R6–ES–2018–0045, or upon request from the Montana Ecological Services Field Office (see **ADDRESSES**).

Authors

The authors of this proposed rule are staff members of the Montana Ecological Services Field Office and field and regional offices in California, Colorado, Idaho, Oregon, and Washington.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

§ 17.12 [Amended]

■ 2. Amend § 17.12(h) by removing the entry for ''*Howellia aquatilis*'' under FLOWERING PLANTS from the List of Endangered and Threatened Plants.

Dated: August 9, 2019.

Margaret E. Everson,

Principal Deputy Director, U.S. Fish and Wildlife Service, Exercising the Authority of the Director, for the U.S. Fish and Wildlife Service.

[FR Doc. 2019–21645 Filed 10–4–19; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register

Vol. 84, No. 194

Monday, October 7, 2019

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 2, 2019.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by November 6, 2019 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW, Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food Safety and Inspection Service

Title: Industry Response to Noncompliance Records.

OMB Control Number: 0583–0146.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 et. seq.), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, et. seq.), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031). These statues mandate that FSIS protect the public by verifying that meat and, poultry products are safe, wholesome, not adulterated, and properly labeled and packaged. If FSIS in-plant personnel discover noncompliance with regulatory requirements they issue Noncompliance Records (NRs). The Noncompliance Record, FSIS Form 5400–4 and FSIS 5400–4 FISH, serves as FSIS' official record of noncompliance with one or more regulatory requirements.

Need and Use of the Information: FSIS will use the form 5400–4 and 5400–4 FISH to document their findings and provided written notification of the establishment's failure to comply with regulatory requirement(s). The establishment management receives a copy of the form and has the opportunity to respond in writing using the Noncompliance Record form.

Description of Respondents: Business or other for-profit.

Number of Respondents: 7,057.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 119,969.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2019–21806 Filed 10–4–19; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 2, 2019.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; New Executive Office Building, 725 17th Street NW, Washington, DC 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602.

Comments regarding these information collections are best assured of having their full effect if received by November 6, 2019. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service

Title: Fruits, Nut, and Specialty Crops.

OMB Control Number: 0535–0039.

Summary of Collection: The primary function of the National Agricultural Statistics Service (NASS) is to prepare and issue current official state and national estimates of crop and livestock production. Estimates of fruit, tree nuts, and specialty crops are an integral part of this program. These estimates support the NASS strategic plan to cover all agricultural cash receipts. The authority to collect these data activities is granted under U.S. Code title 7, Section 2204(a). Information is collected on a voluntary basis from growers, processors, and handlers through surveys.

Need and Use of the Information: Data reported on fruit, nut, specialty crops and Hawaii tropical crops are used by NASS to estimate acreage, yield, production, price, utilization, and value of citrus and non-citrus fruits and nuts and other specialty crops in States with significant commercial production. These estimates are essential to farmers, processors, and handlers in making production and marketing decisions. Estimates from these inquiries are used by market order administrators in their determination of expected supplies of crop under federal and state market orders as well as competitive fruits and nuts.

Description of Respondents: Farms; Business or other for-profit.

Number of Respondents: 70,805.

Frequency of Responses: Reporting: On occasion; Annually; Quarterly; Semi-annually; Monthly.

Total Burden Hours: 26,070.

Kimble Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2019–21771 Filed 10–4–19; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Forest Service

Pacific Northwest National Scenic Trail Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Renewal of the Pacific Northwest National Scenic Trail Advisory Council.

SUMMARY: The United States Department of Agriculture (USDA) intends to renew the Pacific Northwest National Scenic Trail Advisory Council (Council). In accordance with provisions of the National Trails System Act of 1968, and the Federal Advisory Committee Act (FACA), the Council is being renewed to provide advice and recommendations to the Secretary of Agriculture (Secretary) during the development of the Comprehensive Management Plan for the Pacific Northwest National Scenic Trail (Trail) including the nature and purposes of the Trail, objectives and practices for the Trail, standards for the erection and maintenance of markers along the Trail, and other matters related to the administration of the Trail. Additional information concerning the Council can be found by visiting the Council's website at: *https://www.fs.usda.gov/main/pnt/working-together/advisory-committees.*

FOR FURTHER INFORMATION CONTACT: Becky Blanchard, Pacific Northwest National Scenic Trail Administrator, Pacific Northwest Region—USDA Forest Service, by phone at 503–808–2449 or by email at *becky.blanchard@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 a.m. and 5 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

Pursuant with the provisions of FACA, the Secretary intends to renew the Council to continue providing advice and recommendations on matters related to the Pacific Northwest National Scenic Trail (Trail). The Council consists of approximately 25 members (not more than 35) to represent interests as required by the National Trails System Act. The purpose of the Council is to provide advice on the nature and purposes of the Trail, objectives and practices for the Trail, standards for the erection and maintenance of markers along the Trail, and other matters related to the administration of the Trail.

Advisory Committee Organization

The Council shall be comprised of 25 members, not more than 35 members and approved by the Secretary of Agriculture where each will serve a 2-year term, although appointments shall have staggered terms. The Council membership will be fairly balanced in terms of the points of view represented and functions to be performed. A designated Federal employee, in accordance with Sections 10(e) and (f) of the FACA regulations, will serve as the Designated Federal Officer (DFO). Non-Federal members of the Council shall serve without pay, but will be reimbursed for reasonable costs incurred while performing duties on behalf of the Council, subject to approval by the DFO. The Council shall include representation from experts in the following interest areas:

(1) The head of each Federal department or independent agency administering lands through which the trail route passes, or his designee;

(2) a member appointed to represent each State through which the trail passes, and such appointments shall be made from recommendations of the Governors of such States;

(3) one or more members appointed to represent private organizations, including corporate and individual landowners and land users, which in the opinion of the Secretary, have an established and recognized interest in the trail. These members may represent social, environmental, or economic organizations; and

(4) one or more members appointed to represent tribal interests.

Of these members, one will become the Chairperson who is recognized for their ability to lead a group in a fair and focused manner and who has been briefed on the mission of this Council. The Council will meet on an annual basis or as needed. This will be determined by the Council. Meetings are open to the public and may include a ''public forum'' that may offer 5–10 minutes for participants to present comments to the Council. A meeting notice will be published in the **Federal Register** 15 to 45 days before a scheduled meeting date. Vacancies will filled in the manner in which the original appointment was made. To ensure that the recommendations of the Council have taken into account the needs of diverse groups served by USDA, membership shall, to the extent practicable, include individuals with demonstrated ability to represent all racial and ethnic groups, women and men, and persons with disabilities.

Dated: September 25, 2019.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2019–21819 Filed 10–4–19; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Secure Rural Schools Resource Advisory Committees

AGENCY: Forest Service.

ACTION: Notice of Intent to Establish Secure Rural Schools Resource Advisory Committees.

SUMMARY: The United States Department of Agriculture (USDA) intends to establish the following: The Rocky Mountain Resource Advisory Committee (RAC) in Rocky Mountain Region (R2) by consolidating Bighorn, Medicine-Bow Routt, Shoshone, Grand Mesa Uncompahgre Gunnison and Pike-San Isabel RACs; the Northern Utah RAC in the Intermountain Region (R4) by consolidating the Ashley RAC and the Uinta Wasatch Cache RAC; the Mendo-Lake County RAC in the Pacific Southwest Region (R5) by consolidating the Mendocino RAC and Lake County RAC; the Gifford Pinchot RAC in the Pacific Northwest Region (R6) by consolidating the North Gifford Pinchot RAC and the South Gifford Pinchot RAC; and the Northern Wisconsin RAC in the Eastern Region (R9) by consolidating the Chequamegon RAC and Nicolet RAC. Secure Rural Schools (SRS) RACs pursuant to the Secure Rural Schools and Community Self-Determination Act (the Act), as amended, most recently by the Agricultural Improvement Act of 2018 (Pub. L. 115–334). The SRS RACs will operate in compliance with the Federal Advisory Committee Act (FACA). The purpose of the SRS RACs is to improve collaborative relationships among people who use and care for National Forests. The Secretary has determined that the work of the SRS RACs are in the public's interest and relevant to the duties of the Department of Agriculture. The SRS RACs are statutory committees. Additional information concerning the SRS RACs can be found by visiting the SRS RACs website at: *http://www.fs.usda.gov/pts/.*

FOR FURTHER INFORMATION CONTACT: Jonathan Word, National Partnership Coordinator, Forest Service Secure Rural Schools Program, by telephone at (928) 699–5016 or by email at *jonathan.a.word@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 a.m. and 5 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the provisions of FACA, the Secretary of Agriculture intends to establish SRS RACs to provide advice and recommendations to the Forest Service concerning projects and funding consistent with SRS Title II of the Act. The duties of SRS RACs include monitoring projects, advising the Secretary on the progress and results of monitoring efforts, and making recommendations to the Forest Service for any appropriate changes or adjustments to the projects being monitored by the SRS RACs.

SRS RACs Membership

The SRS RACs will be comprised of no more than 15 members, no fewer than 9 members in accordance with the Agriculture Improvement Act of 2018; hereafter, 2018 Farm Bill. Members will be approved by the Secretary of Agriculture except in Arizona and Montana where they will be approved by the Regional Forester and each will serve a 4-year term. SRS RACs membership will be balanced in terms of the points of view represented and functions to be performed. The SRS RACs shall include representation from the following interest areas:

(1) Five persons who represent:

(a) Organized Labor or Non-Timber Forest Product Harvester Groups,

(b) Developed Outdoor Recreation, Off Highway Vehicle Users, or Commercial Recreation Activities,

(c) Energy and Mineral Development, or Commercial or Recreational Fishing Interests,

(d) Commercial Timber Industry, or

(e) Federal Grazing or Other Land Use Permits, or Represent NonIndustrial Private Forest Land Owners, within the area for which the committee is organized.

(2) Five persons who represent:

(a) Nationally Recognized Environmental Organizations,

(b) Regionally or Locally Recognized Environmental Organizations,

(c) Dispersed Recreational Activities,

(d) Archaeological and Historical Interests, or

(e) Nationally or Regionally Recognized Wild Horse and Burro Interest Groups, Wildlife or Hunting Organizations, or Watershed Associations.

(3) Five persons who represent:

(a) State Elected Office (or a designee),

(b) County or Local Elected Office,

(c) American Indian Tribes within or adjacent to the area for which the committee is organized,

(d) Area School Officials or Teachers, or

(e) Affected Public at Large.

Of these members, one will become the Chairperson who is recognized for their ability to lead a group in a fair and focused manner and who has been briefed on the mission of the RAC. A chairperson is selected by a majority of RAC members. The Committee will meet on an annual basis or as needed and determined by the Agency.

In the event that a vacancy arises, the Designated Federal Officer (DFO) may fill the vacancy in the manner in which the original appointments were made. In accordance with the SRS Act, members of the SRS RAC shall serve without compensation. SRS RAC members may be allowed travel and per diem expenses for attendance at committee meetings, subject to approval of the DFO responsible for administrative support to the SRS RAC.

Equal opportunity practices in accordance with USDA policies shall be followed in all appointments to the SRS RACs. To ensure that the recommendations of the SRS RACs have taken into account the needs of the diverse groups served by USDA, membership will, to the extent practicable, include individuals with demonstrated ability to represent all racial and ethnic groups, women and men, and persons with disabilities.

Dated: September 24, 2019.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2019–21818 Filed 10–4–19; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Wrangell-Petersburg Resource Advisory Committee; Meeting

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 meeting will be held on Wednesday, November 6, 2019, from 6:30 p.m. to 9:00 p.m., or until business is concluded.

All RAC meetings are subject to cancellation. For updated status of the meeting prior to attendance, please contact Linda Slaght, RAC Coordinator, by phone at 907–772–5948 or via email at *lslaght@fs.fed.us.*

ADDRESSES: The meeting will be held at the Wrangell Ranger District Office, 525 Bennett Street, Wrangell, Alaska 99929 and at the Petersburg Ranger District office, 12 North Nordic Drive, Petersburg, Alaska 99833. The two locations will be connected via video teleconference.

Interested persons may attend in person at either location, or by teleconference. For anyone who would like to attend by teleconference, please contact Linda Slaght, RAC Coordinator, by phone at 907–772–5948 or via email at *lslaght@fs.fed.us.*

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, November 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 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 Linda Slaght, RAC Coordinator, by phone at 907–772–5948 or via email at *lslaght@fs.fed.us.* All reasonable accommodation requests are managed on a case by case basis.

Dated: September 25, 2019.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2019–21817 Filed 10–4–19; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Pennsylvania Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA) that a meeting of the Pennsylvania Advisory Committee to the Commission will convene by conference call at 11:30 a.m. (EST) on Tuesday, October 15, 2019. The purpose of the meeting is to discuss the two briefing meetings on the Committee's project titled, School Discipline and School-to-Prison Pipeline in PA. The first briefing will be on Tuesday, November 19, 2019 and conducted via conference call; the second daylong, in-person briefing will be on Thursday, November 21, 2019. Details for both briefings will be provided in subsequent **Federal Register** notices.

DATES: Tuesday, October 15, 2019, 2019, at 11:30 a.m. (EDT).

FOR FURTHER INFORMATION CONTACT: Ivy Davis at *ero@usccr.gov* or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION:

Public Call-In Information: Conference call-in number: 800–353–6461 and conference call ID number: 6813288.

Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 800–353–6461 and conference call ID number: 6813288. Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call-in number: 800–353–6461 and conference call ID number: 6813288.

Members of the public are invited to make statements during the Public Comment section of the meeting or to submit written comments. The statements must be received in the regional office approximately 30 days after the scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, or emailed to Corrine Sanders at *ero@usccr.gov.* Persons who desire additional information may phone the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at: *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzjZAAQ;* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda: Tuesday, October 15, 2019

I. Rollcall

II. Welcome

III. Project Planning

—Discuss Details of the two planned Briefings on the Committee's Civil Rights Project

IV. Other Business

V. Next Meetings

VI. Public Comments

VII. Adjourn

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of preparing for the committee's November 21, 2019, hearing.

Dated: October 2, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–21799 Filed 10–4–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, U.S. Department of Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of the firms contributed importantly to the total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

SUPPLEMENTARY INFORMATION:

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[8/23/2019 through 9/30/2019]

Firm name	Firm address	Date accepted for investigation	Product(s)
Utilikilts Co., LLC	620 1st Avenue, Seattle, WA 98104.	9/18/2019	The firm manufactures kilts.
A.R.E. Manufacturing, Inc.	518 South Springbrook Road, Newberg, OR 97132.	9/24/2019	The firm manufactures metal parts.
Holte Manufacturing, Co., d/b/a Holte Drilling Manufacturing.	25310 Jeans Road, Veneta, OR 97487.	9/30/2019	The firm manufactures drilling equipment and related tools and parts.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Irette Patterson

Program Analyst.

[FR Doc. 2019–21741 Filed 10–4–19; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Denying Export Privileges

In the Matter of: Benjamin James Cance, 215 E. Plainwell Street, Plainwell, MI 49080 and 6911 Childsdale Avenue NE, Rockford, MI 49341,

On January 15, 2016 in the U.S. District Court for the Western District of Michigan, Benjamin James Cance (''Cance'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (''AECA''). Cance was convicted of violating Section 38 of the AECA by knowingly and willfully exporting without the required U.S. Department of State licenses gun components designated as defense articles on the United States Munitions List. Cance was sentenced to forty-eight (48) months in prison, two years of supervised release, a fine of $3,000 and an assessment of $200. Cance was also placed on the U.S. Department of State's Debarred List.

The Export Administration Regulations (''EAR'' or ''Regulations'') are administered and enforced by the U.S. Department of Commerce's Bureau of Industry and Security (''BIS'').[1] Section 766.25 of the Regulations provides, in pertinent part, that the ''Director of [BIS's] Office of Exporter Services, in consultation with the Director of [BIS's] Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of . . . section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d).[2] In addition, pursuant to Section 750.8 of the Regulations, BIS's Office of Exporter Services may revoke any BIS-issued licenses in which the person had an interest at the time of his/her conviction.[3]

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2019). The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. 4601–4623 (Supp. III 2015) (''EAA''), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which was extended by successive Presidential Notices, continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. 1701, *et seq.* (2012) (''IEEPA''). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801–4852 (''ECRA''). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

[2] *See also* Section 11(h) of the EAA, 50 U.S.C. 4610(h) (Supp. III 2015); Sections 1760(e) and 1768 of ECRA, 50 U.S.C. 4819 and 4826; and note 1, *supra.*

[3] *See* notes 1 and 2, *supra.*

BIS has received notice of Cance's conviction for violating Section 38 of the AECA, and pursuant to Section 766.25 of the Regulations has provided notice and an opportunity for Cance to make a written submission to BIS. BIS has not received a submission from Cance.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Cance's export privileges under the Regulations for a period of 10 years from the date of Cance's conviction. I have also decided to revoke any BIS-issued license in which Cance had an interest at the time of his conviction.

Accordingly, it is hereby *ordered:*

First, from the date of this Order until January 15, 2026, Benjamin James Cance, with last known addresses of 215 E. Plainwell Street, Plainwell, MI 49080 and 6911 Childsdale Avenue NE, Rockford, MI 49341, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Cance by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Cance may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Cance and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until January 15, 2026.

Issued this 30th day of September, 2019.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2019–21747 Filed 10–4–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Denying Export Privileges

In the Matter of: Kenneth S. Chait, Inmate Number: 04970–104, RRM Miami, Residential Reentry Office, 401 N. Miami Avenue, Miami, FL 33128

On November 13, 2018, in the U.S. District Court for the Middle District of Georgia, Kenneth S. Chait (''Chait'') was convicted of violating the International Emergency Economic Powers Act (50 U.S.C 1701, *et seq.* (2012)) (''IEEPA''). Specifically, Chait was convicted of violating IEEPA by knowingly and willfully agreeing to attempt to export without the required Department of Commerce license ceramic metal triggered spark gaps, also known as nuclear triggered spark gaps and listed on the Commerce Control List. Chait was sentenced to 12 months and one day in prison, supervised release for a term of two years, and a $100 assessment.

The Export Administration Regulations (''EAR'' or ''Regulations'') are administered and enforced by the U.S. Department of Commerce's Bureau of Industry and Security (''BIS'').[1] Section 766.25 of the Regulations provides, in pertinent part, that the ''Director of [BIS's] Office of Exporter Services, in consultation with the Director of [BIS's] Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of . . . the International Emergency Economic Powers Act (50 U.S.C § 1701–1706).'' 15 CFR 766.25(a). The denial of export privileges under this provision may be

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2019). The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. 4601–4623 (Supp. III 2015) (''EAA''), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which was extended by successive Presidential Notices, including the Notice of August 8, 2018 (83 FR 39,871 (Aug. 13, 2018)), continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. 1701, *et seq.* (2012) (''IEEPA''). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801–4852 (''ECRA''). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d).[2] In addition, pursuant to Section 750.8 of the Regulations, BIS's Office of Exporter Services may revoke any BIS-issued licenses in which the person had an interest at the time of his/her conviction.[3]

BIS received notice of Chait's conviction for violating IEEPA and, pursuant to Section 766.25 of the Regulations, provided notice and an opportunity for Chait to make a written submission to BIS. Chait requested additional time to make a written submission. BIS granted Chait an extension until July 20, 2019. To date, however, BIS has not received a written submission from Chait.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Chait's export privileges under the Regulations for a period of five years from the date of Chait's conviction. I have also decided to revoke any BIS-issued licenses in which Chait had an interest at the time of his conviction.

Accordingly, it is hereby ordered:

First, from the date of this Order until November 13, 2023, Kenneth S. Chait, Inmate Number: 04970–104, RRM Miami, Residential Reentry Office, 401 N. Miami Avenue, Miami, FL 33128, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Chait by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Chait may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Chait and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until November 13, 2023.

Issued this 30th day of September, 2019.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2019–21749 Filed 10–4–19; 8:45 am]

BILLING CODE P

[2] *See also* Section 11(h) of the EAA, 50 U.S.C. 4610(h) (Supp. III 2015); Sections 1760(e) and 1768 of ECRA, 50 U.S.C. 4819 and 4826; and note 1, *supra.*

[3] *See* notes 1 and 2, *supra.*

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Denying Export Privileges

In the Matter of: Arash Sepehri, a/k/a William Anderson, a/k/a Aresh Sepheri Eshtajran, Unit 7, Yazdanpanah Street, Tehran, Iran.

On February 26, 2019, in the U.S. District Court for the District of Columbia, Arash Sepehri, a/k/a William Anderson, a/k/a Aresh Sepheri Eshtajran (''Sepehri''), was convicted of violating 18 U.S.C. 371. Specifically, Sepehri was convicted of knowingly and willfully conspiring to export U.S.-origin items, including high-resolution sonar equipment, data input boards, acoustic transducers and rugged laptops, from the United States to Iran without the required licenses from the U.S. Government. Sepehri was sentenced to twenty-five (25) months in prison, with credit for time served, and a $100 special assessment.

Pursuant to Section 1760(e) of the Export Control Reform Act (''ECRA''),[2] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 371, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e) (Prior Convictions). In addition, any BIS licenses or other authorizations issued under ECRA in which the person had an interest at the time of the conviction may be revoked. *Id.*

BIS has received notice of Sepehri's conviction for violating 18 U.S.C. 371, and has provided notice and an opportunity for Sepehri to make a written submission to BIS, as provided in Section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''). 15 CFR 766.25.[3] BIS

[2] ECRA was enacted as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852. Sepehri's conviction post-dates Section 1760(e)'s enactment on August 13, 2018.

[3] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2019). The Regulations originally issued under

has not received a submission from Sepehri.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Sepehri's export privileges pursuant to ECRA for a period of seven years from the date of Sepehri's conviction. I have also decided to revoke any BIS license issued under ECRA in which Sepehri had an interest at the time of his conviction.

Accordingly, it is hereby *ordered*:

First, from the date of this Order until February 26, 2026, Arash Sepehri, a/k/a William Anderson, a/k/a Aresh Sepheri Eshtajran, with a last known address of Unit 7, Yazdanpanah Street, Tehran, Iran, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to Setion 1760(e) of ECRA and Sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Sepehri by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Sepehri may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Sepehri and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until February 26, 2026.

Issued this 30th day of September, 2019.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2019–21748 Filed 10–4–19; 8:45 am]

BILLING CODE P

the Export Administration Act of 1979, as amended, 50 U.S.C. 4601–4623 (Supp. III 2015) (''EAA''), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which was extended by successive Presidential Notices, including the Notice of August 8, 2018 (83 FR 39,871 (Aug. 13, 2018)), continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. 1701, *et seq.* (2012) (''IEEPA''). Section 1768 of ECRA, 50 U.S.C. 4826, provides in pertinent part that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. *See* note 1, *supra.*

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Denying Export Privileges

In the Matter of: Rasheed Al Jijakli
Inmate Number: 75222–112,
FCI Lompoc,
Federal Correctional Institution,
3600 Guard Road,
Lompoc, CA 93436.

On December 20, 2018, in the U.S. District Court for the Middle District of Georgia, Rasheed Al Jijakli (''Jijakli'') was convicted of violating the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)) (''IEEPA''). Specifically, Jijakli was convicted of conspiring with others to export tactical gear from the United States to Syria without having obtained the required license from the Department of Commerce's Bureau of Industry and Security (''BIS''). The tactical gear included U.S.-origin laser boresighters and day- and night-vision rifle scopes. Jijakli was sentenced to forty-six (46) months in prison, a fine of $5,000, an assessment of $100, and two years of supervised release.

The Export Administration Regulations (''EAR'' or ''Regulations'') are administered and enforced by BIS.[1] Section 766.25 of the Regulations provides, in pertinent part, that the ''Director of [BIS's] Office of Exporter Services, in consultation with the

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2019). The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. 4601–4623 (Supp. III 2015) (''EAA''), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 14, 2019 (84 FR 41881 (Aug. 15, 2019)), continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. 1701, *et seq.* (2012) (''IEEPA''). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801–4852 (''ECRA''). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

Director of [BIS's] Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of . . . the International Emergency Economic Powers Act (50 U.S.C. 1701–1706).'' 15 CFR 766.25(a). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d).[2] In addition, pursuant to Section 750.8 of the Regulations, BIS's Office of Exporter Services may revoke any BIS-issued licenses in which the person had an interest at the time of his/her conviction.[3]

BIS received notice of Jijakli's conviction for violating IEEPA and pursuant to Section 766.25 of the Regulations has provided notice and an opportunity for Jijakli to make a written submission to BIS. BIS has not received a written submission from Jijakli.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Jijakli's export privileges under the Regulations for a period of 10 years from the date of Jijakli's conviction. I have also decided to revoke any BIS-issued licenses in which Jijakli had an interest at the time of his conviction.

Accordingly, it is hereby *ordered:*

First, from the date of this Order until December 20, 2028, Rasheed Al Jijakli, Inmate Number: 75222–112, FCI Lompoc, Federal Correctional Institution, 3600 Guard Road, Lompoc, CA 93436, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Jijakli by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Jijakli may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Jijakli and shall be published in the **Federal Register.**

Sixth, this Order is effective immediately and shall remain in effect until December 20, 2028.

Issued this 30th day of September 2019.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2019–21745 Filed 10–4–19; 8:45 am]

BILLING CODE P

[2] *See also* Section 11(h) of the EAA, 50 U.S.C. 4610(h) (Supp. III 2015); Sections 1760(e) and 1768 of ECRA, 50 U.S.C. 4819 and 4826; and note 1, *supra.*

[3] *See* notes 1 and 2, *supra.*

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Denying Export Privileges

In the Matter of: Eldar Rezvanov, Inmate Number: 35027–016, Moshannon Valley Correctional Institution, 555 Geo Drive, Philipsburg, PA 16866.

On July 24, 2018, in the U.S. District Court for the Eastern District of Virginia, Eldar Rezvanov (''Rezvanov'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (''AECA''). Rezvanov was convicted of violating Section 38 of the AECA by knowingly and willfully exporting, causing the export of, and attempting to export items designated as defense articles on the United States Munitions List from the United States to Russia without the required U.S. Department of State licenses. The items included, seven assembled firearms, ten firearm stocks, 130 fully assembled lower recievers, 133 firearm frames, 158 firearm barrels, 266 firearm slides, 453 functional firearm parts (including springs and firing pins), and 966 firearm magazines. Rezvanov was sentenced to forty-six (46) months in prison, three years of supervised release, and an assessment of $100. Rezvanov also was placed on the U.S. Department of State Debarred List.

The Export Administration Regulations (''EAR'' or ''Regulations'') are administered and enforced by the U.S. Department of Commerce's Bureau of Industry and Security (''BIS'').[1]

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2019). The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. 4601–4623 (Supp. III 2015) (''EAA''), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which was extended by successive Presidential Notices, continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. 1701, *et seq.* (2012) (''IEEPA''). On August 13, 2018, the President

Section 766.25 of the Regulations provides, in pertinent part, that the ''Director of [BIS's] Office of Exporter Services, in consultation with the Director of [BIS's] Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of . . . section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d).[2] In addition, pursuant to § 750.8 of the Regulations, BIS's Office of Exporter Services may revoke any BIS-issued licenses in which the person had an interest at the time of his/her conviction.[3]

BIS has received notice of Rezvanov's conviction for violating Section 38 of the AECA, and pursuant to § 766.25 of the Regulations has provided notice and an opportunity for Rezvanov to make a written submission to BIS. BIS has not received a submission from Rezvanov.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Rezvanov's export privileges under the Regulations for a period of 10 years from the date of Rezvanov's conviction. I have also decided to revoke any BIS-issued license in which Rezvanov had an interest at the time of his conviction.

Accordingly, it is hereby *Ordered:*

First, from the date of this Order until July 24, 2028, Eldar Rezvanov, with a last known address at: Inmate Number: 35027–016, Moshannon Valley Correctional Institution, 555 Geo Drive, Philipsburg, PA 16866, when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Rezvanov by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Rezvanov may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Rezvanov and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until July 24, 2028.

Issued this 30th day of September, 2019.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2019–21746 Filed 10–4–19; 8:45 am]

BILLING CODE 3510–33–P

signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801–4852 (''ECRA''). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

[2] *See also* Section 11(h) of the EAA, 50 U.S.C. 4610(h) (Supp. III 2015); Sections 1760(e) and 1768 of ECRA, 50 U.S.C. 4819 and 4826; and note 1, *supra.*

[3] *See* notes 1 and 2, *supra.*

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Barbara Jo Luque, 7582 South Ocean Port Drive, Tucson, AZ 85757, Order Denying Export Privileges

On April 25, 2018, in the U.S. District Court for the District of Arizona, Barbara Jo Luque (''Luque'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (''AECA''). Luque was convicted of violating Section 38 of the AECA by intentionally attempting to willfully and knowingly export and cause to be exported from the United States to Mexico items designated as defense articles on the United States Munitions List, namely, 5,000 rounds of FMJ Russian 7.62x39 mm ammunition and 125 AK–47 KCI thirty-round magazines, without the required U.S. Department of State licenses. Luque was sentenced to six months in prison, with credit for time served, two years of supervised release, and a special assessment of $100.

The Export Administration Regulations (''EAR'' or ''Regulations'') are administered and enforced by the U.S. Department of Commerce's Bureau of Industry and Security (''BIS'').[1]

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–

Continued

Section 766.25 of the Regulations provides, in pertinent part, that the ''Director of [BIS's] Office of Exporter Services, in consultation with the Director of [BIS's] Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of . . . section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d).[2] In addition, pursuant to Section 750.8 of the Regulations, BIS's Office of Exporter Services may revoke any BIS-issued licenses in which the person had an interest at the time of his/her conviction.[3]

BIS has received notice of Luque's conviction for violating Section 38 of the AECA and pursuant to Section 766.25 of the Regulations has provided notice and an opportunity for Luque to make a written submission to BIS. BIS has not received a submission from Luque.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Luque's export privileges under the Regulations for a period of seven years from the date of Luque's conviction. I have also decided to revoke any BIS-issued license in which Luque had an interest at the time of her conviction.

Accordingly, *it is hereby ordered*:

First, from the date of this Order until April 25, 2025, Barbara Jo Luque, with a last known address of 7582 South Ocean Port Drive, Tucson, AZ 85757, and when acting for or on her behalf, her successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Luque by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Luque may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Luque and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until April 25, 2025.

Issued this 30th day of September 2019.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2019–21740 Filed 10–4–19; 8:45 am]

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774 (2019). The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. 4601–4623 (Supp. III 2015) (''EAA''), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 14, 2019 (84 FR 41,881 (Aug. 15, 2019)), continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. 1701, *et seq.* (2012) (''IEEPA''). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801–4852 (''ECRA''). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

[2] *See also* Section 11(h) of the EAA, 50 U.S.C. 4610(h) (Supp. III 2015); Sections 1760(e) and 1768 of ECRA, 50 U.S.C. 4819 and 4826; and note 1, *supra.*

[3] *See* notes 1 and 2, *supra.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–809]

Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation: Preliminary No Shipments Determination of Antidumping Duty Administrative Review; 2017–2018

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty order on certain hot-rolled flat-rolled carbon-quality steel products (hot-rolled steel) from the Russian Federation. The period of review (POR) is December 1, 2017 through November 30, 2018. Interested parties are invited to comment on these preliminary results.

DATES: Applicable October 7, 2019.

FOR FURTHER INFORMATION CONTACT: Preston Cox, 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) 482–5041.

SUPPLEMENTARY INFORMATION:

Background

In response to Commerce's notice of opportunity to request an administrative review on hot-rolled steel from the Russian Federation,[1] Nucor Corporation, AK Steel Corporation, ArcelorMittal USA LLC, United States Steel Corporation, California Steel Industries, Steel Dynamics, Inc., and SSAB Enterprises LLC (domestic interested parties) timely requested an administrative review with respect to Novolipetsk Steel (NLMK), Severstal PAO, and Severstal Export GmbH.[2] On January 28, 2019, Commerce exercised its discretion to toll all deadlines for reviews of antidumping duty orders with December anniversary dates which were affected by the partial government shutdown by 31 days.[3]

On March 14, 2019, Commerce published in the **Federal Register** a notice of initiation of an administrative review of the antidumping duty order on hot-rolled steel from the Russian Federation covering three companies: NLMK, Severstal PAO, and Severstal Export GmbH.[4] Subsequently, on April 9, 2019, Commerce received a letter from NLMK reporting that it had no exports, sales, or entries of subject merchandise into the United States during the POR.[5] On April 18, 2019, Commerce received a letter from Severstal PAO reporting it had no exports, sales, or entries of subject merchandise into the United States during the POR.[6] Similarly, on April 25, 2019, Commerce received a letter from Severstal Export GmbH reporting it had no exports, sales, or entries of subject merchandise into the United States during the POR.[7] On June 28, 2019, we transmitted a ''No-Shipment Inquiry'' to U.S. Customs and Border Protection (CBP) regarding NLMK, Severstal PAO, and Severstal Export GmbH, to which CBP responded that it found no shipments of hot-rolled steel from NLMK, Severstal PAO, and Severstal Export GmbH during the POR.[8]

Scope of the Order

For the purposes of this order, ''hot-rolled steel'' means certain hot-rolled flat-rolled carbon-quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers) regardless of thickness, and in straight lengths, of a thickness less than 4.75 mm and of a width measuring at least 10 times the thickness.

Universal mill plate (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this order.

Specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this order, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Uiron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.012 percent of boron, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this agreement unless otherwise excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this agreement:

— Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including *e.g.,* ASTM specifications A543, A387, A514, A517, and A506).
— SAE/AISI grades of series 2300 and higher.
— Ball bearing steels, as defined in the HTSUS.
— Tool steels, as defined in the HTSUS.
— Silica-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 1.50 percent.
— ASTM specifications A710 and A736.
— USS Abrasion-resistant steels (USS AR 400, USS AR 500).
— Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 83 FR 62293 (December 3, 2018).

[2] *See* Domestic Interested Parties' Letter, ''Certain Hot-Rolled Carbon Steel Flat Products from Russia: Request for Administrative Review,'' dated December 31, 2018.

[3] *See* Memorandum to the Record from Steven Presing, ''December Order Deadlines Affected by the Partial Shutdown of the Federal Government,'' dated August 7, 2019.

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 9297 (March 14, 2019).

[5] *See* NLMK's Letter, ''Certification of No Shipments for Novolipetsk Steel: Administrative Review of the Antidumping Duty Order on Certain Hot-Rolled-Carbon-Quality Steel Products from the Russian Federation 12/1/2017 to 11/30/2018,'' dated April 9, 2019.

[6] *See* Severstal PAO's Letter, ''Administrative Review of the Antidumping Order on Certain Hot-Rolled

Carbon-Quality Steel Products from the Russian Federation: Certification of No Shipments for PAO Severstal,'' dated April 18, 2019.

[7] *See* Severstal Export GmbH's Letter, ''Administrative Review of the Antidumping Order on Certain Hot-Rolled Carbon-Quality Steel Products from the Russian Federation: Certification of No Shipments for JSC Severstal,'' dated April 25, 2019.

[8] *See* Memorandum, ''Hot-rolled flat-rolled carbon-quality steel products from the Russia Federation (Commerce A–821–809; Customs A–462–809),'' dated July 1, 2019 (Customs Liaison Unit Memorandum).

C	Mn	P	S	Si	Cr	Cu	Ni
0.10–0.14%	0.90% Max	0.025% Max	0.005% Max	0.30 − 0.50%	0.50 − 0.70%	0.20 − 0.40%	0.20% Max

Width = 44.80 inches maximum; Thickness = 0.063 − 0.198 inches; Yield Strength = 50,000 ksi minimum; Tensile Strength = 70,000 − 88,000 psi.

—Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10 − 0.16%	0.70% − 0.90%	0.025% Max	0.006% Max	0.30 − 0.50%	0.50 − 0.70%	0.25% Max	0.20% Max
Mo	.....	.....	.....	.....	.....	.....	.....
0.21% Max	.....	.....	.....	.....	.....	.....	.....

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum; Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

—Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10 − 0.14%	1.30 − 1.80%	0.025% Max	0.005% Max	0.30 − 0.50%	0.50 − 0.70%	0.20 − 0.70%	0.20% Max
V(wt.)	Cb	.....	.....	.....	.....	.....	.....
0.10% Max	0.08% Max	.....	.....	.....	.....	.....	.....

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum; Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

—Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.15% Max	1.40% Max	0.025% Max	0.010% Max	0.50% Max	1.00% Max	0.50% Max	.20% Max
Nb	Ca	Al	.....	.....	.....	.....	.....
0.005% Max	Treated	0.01 − 0.07%	.....	.....	.....	.....	.....

Width = 39.37 inches; Thickness = 0.181 inches maximum; Yield Strength = 70,000 psi minimum for thicknesses ≤ 0.148 inches and 65,000 psi minimum for thicknesses > 0.148 inches; Tensile Strength = 80,000 psi minimum.

Hot-rolled dual phase steel, phase-hardened, primarily with a ferritic-martensitic microstructure, contains 0.9 percent up to and including 1.5 percent silicon by weight, further characterized by either (i) tensile strength between 540 N/mm² and 640 N/mm² and an elongation percentage ≥ 26 percent for thicknesses of 2 mm and above, or (ii) a tensile strength between 590 N/mm² and 690 N/mm² and an elongation percentage ≥ 25 percent for thicknesses of 2mm and above.

Hot-rolled bearing quality steel, SAE grade 1050, in coils, with an inclusion rating of 1.0 maximum per ASTM E 45, Method A, with excellent surface quality and chemistry restrictions as follows: 0.012 percent maximum phosphorus, 0.015 percent maximum sulfur, and 0.20 percent maximum residuals including 0.15 percent maximum chromium.

Grade ASTM A570–50 hot-rolled steel sheet in coils or cut lengths, width of 74 inches (nominal, within ASTM tolerances), thickness of 11 gauge (0.119 inches nominal), mill edge and skin passed, with a minimum copper content of 0.20 percent.

The covered merchandise is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, 7211.19.75.90, 7212.40.10.00, 7212.40.50.00, 7212.50.00.00. Certain hot-rolled flat-rolled carbon-quality steel covered include: Vacuum degassed, fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.01.80. Although the HTSUS subheadings are provided for convenience and Customs purposes, the

written description of the covered merchandise is dispositive.

Preliminary Determination of No Shipments

Based on record evidence, we preliminarily determine that NLMK, Severstal PAO, and Severstal Export GmbH had no shipments of subject merchandise during the POR. Specifically, CBP indicated that it found no shipments by NLMK, Severstal PAO, and Severstal Export GmbH during the POR.[9] Consistent with Commerce's practice, we find that it is not appropriate to rescind the review with respect to NLMK, Severstal PAO, and Severstal Export GmbH but, rather, to complete the review and issue appropriate instructions to CBP based on the final results of this review.[10]

Public Comment

Interested parties may submit case briefs no later than 30 days after the date of publication of this notice.[11] Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[12] Parties who submit case or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[13]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce using Enforcement and Compliance's ACCESS system within 30 days after the date of publication of this notice.[14] Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions must be filed electronically using ACCESS and served on interested parties.[15] An electronically-filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Standard Time on the date that the document is due.

Unless the deadline is extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).

Assessment Rates

In accordance with Commerce's practice, we find it appropriate to complete the review and issue liquidation instructions to CBP concerning entries for NLMK, Severstal PAO, and Severstal Export GmbH following issuance of the final results of review. If we continue to find that NLMK, Severstal PAO, and Severstal Export GmbH had no shipments of subject merchandise in the final results, we will instruct CBP to liquidate any existing entries of merchandise produced by NLMK, Severstal PAO, and Severstal Export GmbH, but exported by other parties, at the rate for the intermediate reseller, if available, or at the all-others rate.[16]

We intend to issue instructions to CBP 15 days after the publication date of the final results of this review.

Cash Deposit Requirements

If the final results of review continue to find that NLMK, Severstal PAO, and Severstal Export GmbH had no shipments during the POR, there will be no change to the existing cash deposit requirements.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: September 30, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

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[9] *See* Customs Liaison Unit Memorandum.

[10] *See, e.g., Certain Frozen Warmwater Shrimp From Thailand; Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, Preliminary Determination of No Shipments; 2012–2013,* 79 FR 15951, 15952 (March 24, 2014), unchanged in *Certain Frozen Warmwater Shrimp From Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012–2013,* 79 FR 51306 (August 28, 2014); *Magnesium Metal From the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review,* 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal From the Russian Federation: Final Results of Antidumping Duty Administrative Review,* 75 FR 56989 (September 17, 2010).

[11] *See* 19 CFR 351.309(c)(1)(ii).

[12] *See* 19 CFR 351.309(d).

[13] *See* 19 CFR 351.309(c)(2) and (d)(2).

[14] *See* 19 CFR 351.310(c).

[15] *See* 19 CFR 351.303(f).

[16] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates. In accordance with Commerce's regulations, we are initiating those administrative reviews.

DATES: Applicable October 7, 2019.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

Commerce has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of

review (POR), it must notify Commerce within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *http://access.trade.gov* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on Commerce's service list.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 30 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted within seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments within five days after the deadline for the initial comments.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act, the following guidelines regarding collapsing of companies for purposes of respondent selection will apply. In general, Commerce has found that determinations concerning whether particular companies should be ''collapsed'' (*e.g.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*e.g.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (Q&V) Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where Commerce considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular market situation (PMS) for purposes of constructed value under section 773(e) of the Act.[2] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of initial responses to section D of the questionnaire.

Separate Rates

In proceedings involving non-market economy (NME) countries, Commerce begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is Commerce's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, Commerce analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, Commerce assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, Commerce requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on Commerce's website at *http://enforcement.trade.gov/nme/nme-*

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[2] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

sep-rate.html on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[4] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on Commerce's website at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to Commerce no later than 30 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than August 31, 2020.

	Period to be reviewed
Antidumping Duty Proceedings	
INDIA: Finished Carbon Steel Flanges, A–533–871	8/1/18–7/31/19
Adinath International	
Allena Group	
Alloyed Steel	
Bansidhar Chiranjilal	
Bebitz Flanges Works Private Limited	
Bebitz U.S.A., Inc.	
C.D. Industries	
CHW Forge	
CHW Forge Pvt. Ltd.	
Citizen Metal Depot	
Corum Flange	
DN Forge Industries	
Echjay Forgings Limited	
Falcon Valves and Flanges Private Limited	
Heubach International	
Hindon Forge Pvt. Ltd.	
Jai Auto Pvt. Ltd.	
Kinnari Steel Corporation	
M F Rings and Bearing Races Ltd.	
Mascot Metal Manufacturers	
Norma (India) Limited	
Norma (India) Ltd.	
OM Exports	
Punjab Steel Works (PSW)	
R.D. Forge	
R.N. Gupta & Co. Ltd.	
Raaj Sagar Steels	
Ravi Ratan Metal Industries	
Rolex Fittings India Pvt. Ltd.	
Rollwell Forge Pvt. Ltd.	
SHM (ShinHeung Machinery)	
Siddhagiri Metal & Tubes	
Silbo Industries, Inc.	
Sizer India	
Steel Shape India	
Sudhir Forgings Pvt. Ltd.	
Tirupati Forge	
Uma Shanker Khandelwal & Co.	
Umashanker Khandelwal and Co.	
Umashanker Khandelwal Forging Limited	

[3] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[4] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

	Period to be reviewed
USK Export Private Limited	
INDIA: Polyethylene Terephthalate (PET) Film,[5] A–533–824	7/1/18–6/30/19
ITALY: Finished Carbon Steel Flanges, A–475–835	8/1/18–7/31/19
ASFO S.p.A.	
ASFO S.p.A.—FOMAS Group	
Assotherm srl	
Bifrangi S.p,A.	
CAT Carpenteria Metallica srl	
Costruzione Ricambi Machine Industriali	
Filmag Italia S.r,l.	
FOC Ciscato S,p.A.	
FOMAS	
Forgia Di Bollate S.p.A.	
Forgiatura A. Vienna diAntonio Vienna	
Forgital Italy S.p.A.	
Franchini Acciai S.p.A.	
Galperti Forged Products	
Inox Laghi S.r,l.	
KIASMA SRL	
lml Industria Meccanica Ligure	
Martin Valmore srl	
M.E.G.A. S.p.A.	
Metalfar Prodotti Industriali, S.p.A.	
Officine Ambrogio Melesi& C. S.R.L	
Officine di Cortabbio s.r.l.	
OFFICINE MECCANICHE CIOCCA S.P.A.	
Officine SANTAFEDE	
Siderforgerossi Group S.P.A.	
UNIGEN Steel Engineering	
VALVITALIA S.p.A.	
JAPAN: Tin Mill Products, A–588–854	8/1/18–7/31/19
Hanwa Co., Ltd.	
Hitachi Metals, Ltd.	
JFE Steel Corporation	
JFE Shoji Trade Corporation	
Kobe Steel Ltd.	
Mitsui and Co., Ltd.	
Nippon Steel Group	
Nippon Steel Corporation	
Sumikin Bussan	
Nippon Steel Trading Corporation	
Okaya and Co., Ltd.	
Oneda Electric Corporation	
Sumitomo Corporation	
Sumitomo Corporation Global Metals	
Tomiyasu & Co., Ltd.	
Toyo Kohan Co., Ltd.	
MALAYSIA: Polyethylene Retail Carrier Bags, A–557–813	8/1/18–7/31/19
Euro SME Sdn Bhd	
MEXICO: Light-Walled Rectangular Pipe and Tube, A–201–836	8/1/18–7/31/19
Aceros Cuatro Caminos S.A. de C.V.	
Arco Metal S.A. de C.V.	
Fabricaciones y Servicios de Mexico	
Galvak, S.A. de C.V.	
Grupo Estructuras y Perfiles	
Hylsa S.A. de C.V.	
Industrias Monterrey S.A. de C.V	
Internacional de Aceros, S.A. de C.V.	
Maquilacero S.A. de C.V.	
Nacional de Acero S.A. de C.V.	
PEASA-Productos Especializados de Acero	
Perfiles LM, S.A. de C.V.	
Productos Laminados de Monterrey S.A. de C.V.	
Regiomontana de Perfiles y Tubos S. de R.L. de C.V.	
Regiomontana de Perfiles y Tubos S.A. de C.V.	
Talleres Acero Rey S.A. de C.V.	
Ternium Mexico S.A. de C.V.	
Tuberia Laguna, S.A. de C.V.	
Tuberias Aspe S.A de C.V.	
Tuberias y Derivados S.A. de C.V.	
REPUBLIC OF KOREA: Dioctyl Terephthalate, A–580–889	8/1/18–7/31/19
Aekyung Petrochemical Co., Ltd. Hanwha Chemical Corporation	
LG Chem, Ltd.	
REPUBLIC OF KOREA: Large Power Transformers, A–580–867	8/1/18–7/31/19

	Period to be reviewed
Iljin Electric Co., Ltd.	
Hyundai Electric & Energy Systems Co., Ltd.	
Hyosung Heavy Industries Corporation	
ILJIN	
LSIS Co., Ltd.	
REPUBLIC OF KOREA: Low Melt Polyester Staple Fiber, A–580–895	2/1/18–7/31/19
Toray Advanced Materials Korea, Inc.	
ROMANIA: Carbon and Alloy Seamless Standard, Line and Pressure Pipe, A–485–805 (under 4½ Inches)	8/1/18–7/31/19
ArcelorMittal Tubular Products Roman S.A.	
SC TMK-Artrom S.A.[6]	
SC Tubinox S.A.	
Silcotub S.A.	
SOCIALIST REPUBLIC OF VIETMAN: Certain Frozen Fish Fillets, A–552–801	8/1/18–7/31/19
An Giang Agriculture and Food Import-Export Joint Stock Company (also known as Afiex, An Giang Agriculture and Foods Import-Export Joint Stock Company, An Giang Agriculture and Food Import-Export Company, An Giang Agriculture and Foods Import and Export Company, or An Giang Agriculture and Foods Import-Export Company)	
An Giang Fisheries Import and Export Joint Stock Company (also known as Agifish, AnGiang Fisheries Import and Export, or An Giang Fisheries Import & Export Joint Stock Company)	
An My Fish Joint Stock Company (also known as Anmyfish or Anmyfishco)	
An Phat Import-Export Seafood Co., Ltd. (also known as An Phat Seafood Co. Ltd. or An Phat Seafood Co., Ltd.)	
An Phu Seafood Corporation (also known as ASEAFOOD or An Phu Seafood Corp.)	
Anvifish Joint Stock Company (also known as Anvifish, Anvifish JSC, or Anvifish Co., Ltd.)	
Asia Commerce Fisheries Joint Stock Company (also known as Acomfish JSC or Acomfish)	
Asia Pangasius Company Limited (also known as ASIA)	
Basa Joint Stock Company (BASACO)	
Ben Tre Aquaproduct Import and Export Joint Stock Company (also known as Bentre Aquaproduct, Bentre Aquaproduct Import & Export Joint Stock Company, or Aquatex Bentre)	
Bentre Forestry and Aquaproduct Import Export Joint Stock Company (also known as Bentre Forestry and Aquaproduct Import and Export Joint Stock Company, Ben Tre Forestry and Aquaproduct Import-Export Joint Stock Company, Ben Tre Forestry and Aquaproduct Import-Export Company, Ben Tre Forestry Aquaproduct Import-Export Company, Ben Tre Frozen Aquaproduct Export Company, or Faquimex)	
Bien Dong Hau Giang Seafood Joint Stock Company (also known as Bien Dong HG or Bien Dong Hau Giang Seafood Joint Stock Co.)	
Bien Dong Seafood Company Ltd. (also known as Bien Dong, Bien Dong Seafood, Bien Dong Seafood Co., Ltd., Biendong Seafood Co., Ltd., or Biendong Seafood Limited Liabilty Company)	
Binh An Seafood Joint Stock Company (also known as Binh An or Binh An Seafood Joint Stock Co.)	
Binh Dinh Import Export Company (also known as Binh Dinh)	
Cadovimex II Seafood Import-Export and Processing Joint Stock Company (also known as Cadovimex II, Cadovimex II Seafood Import-Export, Cadovimex II Seafood Import Export and Processing Joint Stock Company, or Cadovimex II Seafood Import-Export & Processing Joint Stock Company)	
Cafatex Corporation (also known as Cafatex)	
Can Tho Animal Fishery Products Processing Export Enterprise (also known as Cafatex)	
Cantho Import-Export Seafood Joint Stock Company (also known as CASEAMEX, Cantho Import Export Seafood Joint Stock Company, Cantho Import-Export Joint Stock Company, Can Tho Import Export Seafood Joint Stock Company, Can Tho Import-Export Seafood Joint Stock Company, or Can Tho Import-Export Joint Stock Company)	
C.P. Vietnam Corporation	
Cuu Long Fish Import-Export Corporation (also known as CL Panga Fish)	
Cuu Long Fish Joint Stock Company (also known as CL–Fish, CL–FISH CORP, or Cuu Long Fish Joint Stock Company)	
Da Nang Seaproducts Import-Export Corporation (also known as Da Nang or Da Nang Seaproducts Import/Export Corp.)	
Dai Thanh Seafoods Company Limited (also known as DATHACO, Dai Thanh Seafoods, or Dai Thanh Seafoods Co., Ltd.)	
East Sea Seafoods LLC (also known as ESS LLC, ESS, ESS JVC, East Sea Seafoods Limited Liability Company, East Sea Seafoods Joint Venture Co., Ltd.)	
Europe Joint Stock Company (also known as Europe JSC or EJS CO.)	
Fatifish Company Limited (also known as FATIFISH or FATIFISHCO)	
Go Dang An Hiep One Member Limited Company	
Go Dang Ben Tre One Member Limited Liability Company	
GODACO Seafood Joint Stock Company (also known as GODACO, GODACO Seafood J.S.C., GODACO Seafood, or GODOCO_SEAFOOD)	
Golden Quality Seafood Corporation (also known Golden Quality, GoldenQuality, GoldenQuality Seafood Corporation, or GOLDENQUALITY)	
Green Farms Seafood Joint Stock Company (also known as Green Farms, GreenFarm SeaFoods Joint Stock Company, Green Farms Seafoods Joint Stock Company, or Green Farms Seafood JSC)	
Hai Huong Seafood Joint Stock Company (also known as HHFish, HH Fish, or Hai Houng Seafood)	
Hiep Thanh Seafood Joint Stock Company (also known as Hiep Thanh or Hiep Thanh Seafood Joint Stock Co.)	
Hoa Phat Seafood Import-Export and Processing J.S.C. (also known as HOPAFISH, Hoa Phat Seafood Import-Export and Processing Joint Stock Company, or Hoa Phat Seafood Import-Export and Processing JSC)	
Hoang Long Seafood Processing Company Limited (also known as HLS, Hoang Long Seafood, Hoang Long Seafood Processing Co., Ltd., Hoang Long, or Hoang Long Seafood)	

	Period to be reviewed
Hung Vuong Ben Tre Seafood Processing Company Limited (also known as Ben Tre, HVBT, or HVBT Seafood Processing)	
Hung Vuong—Mien Tay Aquaculture Corporation (also known as HVMT or Hung Vuong Mien Tay Aquaculture Joint Stock Company)	
Hung Vuong—Sa Dec Co., Ltd. (also known as Hung Vuong Sa Dec Company Limited)	
Hung Vuong—Vinh Long Co., Ltd. (also known as Hung Vuong Vinh Long Company Limited)	
Hung Vuong Corporation (as known as HVC or HV Corp.)	
Hung Vuong Joint Stock Company	
Hung Vuong Mascato Company Limited	
Hung Vuong Seafood Joint Stock Company	
International Development & Investment Corporation (also known as IDI or International Development and Investment Corporation)	
Lian Heng Investment Co., Ltd. (also known as Lian Heng Investment or Lian Heng)	
Lian Heng Trading Co., Ltd. (also known as Lian Heng or Lian Heng Trading)	
Nam Phuong Seafood Co., Ltd. (also known as Nam Phuong, NAFISHCO, Nam Phuong Seafood, or Nam PhuongSeafood Company Ltd.)	
Nam Viet Corporation (also known as NAVICO)	
Ngoc Ha Co. Ltd. Food Processing and Trading (also known as Ngoc Ha or Ngoc Ha Co., Ltd. Foods Processing and Trading)	
Nha Trang Seafoods, Inc. (also known as Nha Trang Seafoods-F89, Nha Trang Seafoods, or Nha Trang Seaproduct Company)	
NTACO Corporation (also known as NTACO or NTACO Corp.)	
NTSF Seafoods Joint Stock Company (also known as NTSF or NTSF Seafoods)	
Quang Minh Seafood Company Limited (also known as Quang Minh, Quang Minh Seafood Co., Ltd., or Quang Minh Seafood Co.)	
QVD Dong Thap Food Co., Ltd. (also known as Dong Thap or QVD DT)	
QVD Food Company, Ltd. (also known as QVD, QVD Food Co., Ltd., or QVD Aquaculture)	
Saigon-Mekong Fishery Co., Ltd. (also known as SAMEFICO or Saigon Mekong Fishery Co., Ltd.)	
Seafood Joint Stock Company No. 4 Branch Dongtam Fisheries Processing Company (also known as DOTASEAFOODCO or Seafood Joint Stock Company No. 4-Branch Dong Tam Fisheries Processing Company)	
Seavina Joint Stock Company (also known as Seavina)	
Southern Fishery Industries Company, Ltd. (also known as South Vina, South Vina Co., Ltd., Southern Fisheries Industries Company, Ltd., Southern Fishery Industries Co., Ltd., or Southern Fisheries Industries Company Limited)	
Sunrise Corporation	
TG Fishery Holdings Corporation (also known as TG)	
Thanh Binh Dong Thap One Member Company Limited (also known as Thanh Binh Dong Thap or Thanh Binh Dong Thap Ltd.)	
Thanh Hung Co., Ltd. (also known as Thanh Hung Frozen Seafood Processing Import Export Co., Ltd. or Thanh Hung)	
Thien Ma Seafood Co., Ltd. (also known as THIMACO, Thien Ma, Thien Ma Seafood Company, Ltd., or Thien Ma Seafoods Co., Ltd.)	
Thuan An Production Trading and Service Co., Ltd. (also known as TAFISHCO, Thuan An Production Trading and Services Co., Ltd., Thuan An Production & Trading Service Co., Ltd., or Thuan An Production & Trading Services Co., Ltd.)	
Thuan Hung Co., Ltd. (also known as THUFICO)	
To Chau Joint Stock Company (also known as TOCHAU, TOCHAU JSC, or TOCHAU Joint Stock Company)	
Van Duc Food Export Joint Stock Company (also known as Van Duc)	
Van Duc Tien Giang Food Export Company (also known as VDTG)	
Viet Hai Seafood Company Limited (also known as Viet Hai, Vietnam Fish-One Co., Ltd. Viet Hai Seafood Co., Viet Hai Seafood Co., Ltd., Vietnam Fish One Co., Ltd., or Fish One)	
Viet Phu Foods and Fish Corporation (also known as Vietphu, Viet Phu, Viet Phu Food and Fish Corporation, or Viet Phu Food & Fish Corporation)	
Viet Phu Foods & Fish Co., Ltd.	
Vinh Hoan Corporation (also known as Vinh Hoan, Vinh Hoan Co., or Vinh Hoan Corp.)	
Vinh Long Import-Export Company (also known as Vinh Long, Imex Cuu Long or Vinh Long Import/Export Company)	
Vinh Quang Fisheries Corporation (also known as Vinh Quang, Vinh Quang Fisheries Joint Stock Company, Vinh Quang Fisheries Co.,Ltd., or Vinh Quang Fisheries Corp.)	
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SPAIN: Ripe Olives, A–469–817	1/26/18–7/31/19
Agro Sevilla Aceitunas S.COOP (And.)	
Angel Camacho Alimentacion S.L.	
Alimentary Group Dcoop S.Coop. And.	
THAILAND: Citric Acid and Certain Citrate Salts,[7] A–549–833	1/8/18–6/30/19
THE PEOPLE'S REPUBLIC OF CHINA: Cast Iron Soil Pipe Fittings, A–570–062	2/20/18–7/31/19
Wor-Biz Trading Co., Ltd. (Anhui)	
Shijiazhuang Asia Casting Co., Ltd	
Shanxi Zhongrui Tianyue Trading Co., Ltd	
Dalian Lino F.T.Z. Co., Ltd	
Dinggin Hardware (Dalian) Co., Ltd	
Dalian Metal I/E Co., Ltd	
Qinshui Shunshida Casting Co., Ltd	

	Period to be reviewed
Richang Qiaoshan Trade Co., Ltd	
Hebei Metals & Engineering Products Trading Co., Ltd.	
Golden Orange International Ltd.	
Yangcheng County Huawang Universal	
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THE PEOPLE'S REPUBLIC OF CHINA: Certain Passenger Vehicle and Light Truck Tires, A–570–016	8/1/18–7/31/19
Cooper (Kunshan) Tire Co., Ltd.	
Hankook Tire China Co., Ltd.	
Haohua Orient International Trade Ltd.	
Jiangsu Hankook Tire Co., Ltd.	
Pirelli Tyre Co., Ltd.	
Qingdao Fullrun Tech Tyre Corp., Ltd.	
Qingdao Fullrun Tyre Corp., Ltd.	
Qingdao Keter International Co., Limited	
Qingdao Lakesea Tyre Co., Ltd.	
Qingdao Odyking Tyre Co., Ltd.	
Qingdao Powerich Tyre Co., Ltd.	
Qingdao Sentury Tire Co., Ltd.	
Riversun Industry Limited	
Safe & Well (HK) International Trading Limited	
Shandong Anchi Tyres Co., Ltd.	
Shandong Duratti Rubber Corporation Co., Ltd.	
Shandong Guofeng Rubber Plastics Co., Ltd.	
Shandong Hengyu Science & Technology Co., Ltd.	
Shandong Linglong Tyre Co., Ltd.	
Shandong Longyue Rubber Co., Ltd., DBA ZODO Tire Co., Ltd.	
Shandong New Continent Tire Co., Ltd.	
Shandong Province Sanli Tire Manufactured Co., Ltd.	
Shandong Wanda Boto Tyre Co., Ltd.	
Shandong Yongsheng Rubber Group Co., Ltd.	
Shouguang Firemax Tyre Co., Ltd.	
Triangle Tyre Co., Ltd.	
Windforce Tyre Co., Limited	
Zhaoqing Junhong Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Steel Nails, A–570–909	8/1/18–7/31/19
Accurate Metal Machining Co., Ltd.	
Air It On Inc.	
Alsons Manufactuiring India Llp	
Anhui Amigo Imp. & Exp. Co. Ltd.	
Anhui Tea Imp. & Exp. Co. Ltd.	
Artree (Xiamen) Group Ltd	
Asiahan Industrial Trading Ltd.	
Astrotech Steels Pvt. Ltd.	
Baoding Jieboshun Trading Co., Ltd.	
Beijing Camzone Industrial & Trading Co., Ltd.	
Beijing Catic Industry Ltd.	
Beijing Jinheung Co., Ltd.	
Beijing Qin-Li Jeff Trading Co., Ltd.	
Beijing Qin-Li Metal Industries Co., Ltd	
Bodi Corporation	
Bonuts Hardware Logistics	
Cana (Rizhao) Hardware Co., Ltd.	
Cangzhou Nandagang Guotai Hardware Products Co., Ltd.	
Cangzhou Xinqiao International Trade Co., Ltd	
Certified Products Taiwan Inc.	
Changzhou Kya Trading Co., Ltd.	
Chanse Mechatronics Scientech Development (Jiangsu) Inc.	
Cheng Ch International Co., Ltd.	
Chia Pao Metal Co., Ltd.	
China Dinghao Co., Ltd.	
China Linyi Global Trade Center Co., Ltd.	
China Staple Enterprise (Tianjin) Co., Ltd.	
Chinapack Ningbo Imp. & Exp. Co., Ltd.	
Chite Enterprises Co., Ltd.	
Chonyi International Co., Ltd.	
Come Best (Thailand) Co., Ltd.	
Continent Link Int'l Limited	
Crelux International Co., Ltd.	
Daejin Steel Co., Ltd.	
De Fasteners Inc.	
De Hui Screw Industry Co., Ltd.	
Dezhou Hualude Hardware Products Co. Ltd.	
Dezhou Xinjiayuan Hardware Products Co., Ltd.	
Dingzhou Baota Metal Products Co., Ltd.	

	Period to be reviewed
Dong E Fuqiang Metal Products Co., Ltd.	
Dongguan Dongri Electrical Electric Equipment Co., Ltd.	
Dongguan Further Wood Products Co., Ltd.	
Eco-Friendly Floor Ltd.	
Ejen Brothers Limited	
Empac International Ltd.	
Everglow Inc.	
Faithful Engineering Products Co., Ltd.	
Fastenal Asia Pacific Limited	
Fastening Care	
Fastgrow International Co., Inc.	
Finepack Industrial Limited	
Foshan Hosontool Development Hardware Co., Ltd.	
Foxsemicon Integrated Technology	
Fujian Win Win Import and Export Trading Co., Ltd.	
GD.CP International Co., Ltd.	
Gdcp Richmax International Ltd.	
Geekay Wires Limited	
Glori-Industry Hong Kong Inc.	
Grace China International Co., Ltd.	
Guangdong Meite Mechanical Co. Ltd.	
Guangdong TC Meite Intelligent Tools Co., Ltd.	
Guangzhou Aivy Nails Technology Co.	
Guangzhou Noval Medical Co., Ltd.	
Guangzhou Xinfeng International Freight Co., Ltd.	
Hai Sheng Xin Group Co., Ltd.	
Hangzhou G-wire Technology Co., Ltd.	
Hangzhou Orient Industry Co., Ltd.	
Happy Worth Limited	
Hebei Cangzhou New Century Foreign Trade Co., Ltd.	
Hebei Jinsidun Trade Co., Ltd.	
Hebei Minghao Imp. & Exp. Co., Ltd.	
Hebei Minmetals Co., Ltd.	
Hengtuo Metal Products Co., Ltd.	
Home Value Co., Ltd.	
Hong Kong Mu Hong Electronic Business Limited	
Hongkong Milley Limited	
Hongkong Shengshi Metal Products Co., Ltd.	
Hongyi (HK) Hardware Products Co., Ltd.	
Huaiyang County Yinfeng Plastic Factory	
Huanghua Haixin Hardware Products Co., Ltd.	
Huanghua Yingjin Hardware Products	
Inmax Industries Sdn. Bhd.	
Inmax Sdn. Bhd.	
Inno International	
J&b Trading Company	
Jade Shuttle Enterprise Co., Ltd.	
Jau Yeou Industry Co., Ltd.	
Jiang Men City Yu Xing Furniture Limited Company	
Jiangmen Jianghai District Hengke Plastic Film Packing Factory	
Jiangsu General Science Technology Co., Ltd.	
Jiangsu Hexon Imp & Exp Co., Ltd.	
Jiangsu Holly Corporation	
Jiangsu Huaiyin Guex Tools	
Jiangsu Inter-China Group Corp.	
Jiangsu Soho Honry Imp. and Exp. Co., Ltd.	
Jiangsu Vivaturf Co., Limited	
Jiashan Lianchuang Plastic & Hardware	
Jiaxing TSR Hardware Inc.	
Jinhai Hardware Co., Ltd.	
Jinheung Steel Corporation	
Jinhua Ausen Crafts Co., Ltd	
Jinsco International Corp.	
Kaierda Display Furniture Limited	
Koram Inc.	
Koram Steel Co., Ltd.	
Korea Wire Co., Ltd.	
Ko's Nail Incorporation	
Liang Chyuan Ind. Co., Lmt.	
Liang Chyuan Industrial Co., Limited.	
Liang's Industrial Corp.	
Liaocheng Minghui Hardware Products	
Linyi FlyingArrow Imp. & Exp. Co. Ltd.	
Linyi Royal Trading Co., Ltd	

	Period to be reviewed
M&M Industries Co., Ltd.	
Maanshan Lilai International Trade Co., Ltd.	
Max Co., Ltd.	
Maxwealth Development Intl Ltd.	
Mayer(Hk)limited	
Milkyway Chemical Supply Chain Service Co., Ltd.	
Ming Cheng Hardware Company Limited	
Mingguang Abundant Hardware Products Co., Ltd.	
Mingguang Ruifeng Hardware Products Co., Ltd.	
Modern Factory For Metal Products	
MPROVE Co., Limited	
Nailtech Co., Ltd.	
Nanjing Caiqing Hardware Co., Ltd.	
Nanjing Duraturf Co., Ltd.	
Nanjing Nuochun Hardware Co., Ltd.	
Nanjing Tianxingtong Electronic Technology Co., Ltd.	
Nanjing Tianyu International Co., Ltd.	
Nanjing Toua Hardware & Tools Co., Ltd.	
Nanjing Yuechang Hardware Co., Ltd.	
Nanjing Zeejoe International Trade	
Nantong Intlevel Trade Co., Ltd.	
Natuzzi China Limited	
Nielsen Bainbridge LLC	
Ningbo Adv. Tools Co., Ltd.	
Ningbo Angelstar Trading Co., Ltd.	
Ningbo Bright Max Co., Ltd.	
Ningbo Fine Hardware Production Co., Ltd.	
Ningbo Freewill Imp. & Exp. Co., Ltd.	
Ningbo Home-dollar Imp.& Exp. Corp.	
Ningbo Langyi Metal Products Co., Ltd.	
Ningbo Nd Import & Export Co., Ltd.	
Ningbo Otic Import and Export Co.	
Ningbo Weifeng Fastener Co., Ltd.	
Ningbo Wellpack Packaging Co., Ltd,	
Ningbo WePartner Imp. & Exp. Co., Ltd.	
Ningbo Yinzhou Angelstar International Trading	
Ningbo Zenith Passion Imp. & Exp. Co, Ltd.	
Ninghai Rayguang Horsemanship Produducts Co., Ltd.	
Niran Vietnam Company Limited	
Overseas Distribution Services Inc.	
Overseas International Steel Industry	
Paslode Co., Ltd.	
Paslode Fasteners Co., Ltd.	
Patek Tool Co., Ltd.	
Perfect Seller Co., Ltd.	
Potentech (Guangdong) Limited	
President Industrial Inc.	
Primesource Building Products	
Promising Way (Hong Kong) Ltd.	
Pro-Team Coil Nail Enterprise Inc.	
Qingdao Ant Hardware Manufacturing Co., Ltd.	
Qingdao Concord Trading Co., Ltd.	
Qingdao D&L Group Ltd.	
Qingdao D&L Hardware Co., Ltd.	
Qingdao Gold Dragon Co., Ltd.	
Qingdao Hongyuan Nail Industry Co., Ltd.	
Qingdao JCD Machinery Co., Ltd.	
Qingdao Jisco Co., Ltd.	
Qingdao Meijialucky Industry and Co.	
Qingdao MST Industry and Commerce Co., Ltd.	
Qingdao Powerful Machinery Co., Ltd.	
Qingdao Sunrise Metal Products Co., Ltd.	
Qingdao TianHeng Xiang metal Products Co., Ltd	
Qingdao Tiger Hardware Co., Ltd.	
Qingdao Top Metal Industrial Co., Ltd.	
Qingdao Top Steel Industrial Co., Ltd.	
Qingdao Uni-Trend International Ltd.	
Qingdao YuanYuan Metal Products LLC	
Quanzhou Quanxing Hardware Crafts C	
Quick Advance Inc.	
Quzhou Monsoon Hardware Co., Ltd.	
Region Industries Co., Ltd.	
Region System Sdn. Bhd.	
Rise Time Industrial Ltd.	

	Period to be reviewed
Ri-Time Group Inc.	
Ruifeng Hardware Products Co., Ltd.	
SDC International Australia Pty. Ltd	
Shaanxi Newland Industrial Co.	
Shandong Dinglong Imp. & Exp. Co., Ltd.	
Shandong Liaocheng Minghua Metal Pvt. Ltd.	
Shandong Oriental Cherry Hardware Group Co., Ltd.	
Shandong Qingyun Hongyi Hardware Co., Ltd.	
Shanghai Cedargreen Imp. & Exp. Co., Ltd.	
Shanghai Centro Mechanical & Electrical	
Shanghai Curvet Hardware Products Co., Ltd	
Shanghai Haoray International Trade Co., Ltd.	
Shanghai Jade Shuttle Hardware Tools Co., Ltd.	
Shanghai March Import & Export Co., Ltd.	
Shanghai Seti Enterprise Int'l Co., Ltd.	
Shanghai Shenda Imp. & Exp. Co., Ltd	
Shanghai Sutek Industries Co., Ltd.	
Shanghai Television and Electronics Import and Export Co., Ltd.	
Shanghai Yiren Machinery Co., Ltd.	
Shanghai Yueda Fasteners Co., Ltd.	
Shanghai Yueda Nails Industry Co., Ltd., a.k.a. Shanghai Yueda Nails Co., Ltd.	
Shanghai Zoonlion Industrial Co., Limited	
Shanghai Zoonlion Industrial Co., Ltd.	
Shanxi Easyfix Trade Co., Ltd.	
Shanxi Fastener & Hardware Products	
Shanxi Hairui Trade Co., Ltd.	
Shanxi Pioneer Hardware Industrial Co., Ltd.	
Shanxi Tianli Industries Co., Ltd.	
Shanxi Xinjintai Hardware Co., Ltd.	
Shaoxing Bohui Import and Export Co., Ltd	
Shaoxing Chengye Metal Producing Co., Ltd.	
Shenzhen Chuangyuan Jiayi Trading Co., Ltd	
Shenzhen Fake Trading Co., Ltd.	
Shenzhen Jingmai Trade Co., Limited	
Shenzhen Xinjintai Hardware Co., Ltd.	
Shenzhen Yuantaifan Frame Craft	
S-Mart (Tianjin) Technology Development Co., Ltd.	
Sourcing Metrics Ltd.	
Sueyi International Ltd.	
Sumec Machinery and Electric Co., Ltd.	
Suntec Industries Co., Ltd.	
Suzhou Xingya Nail Co., Ltd.	
Tag Fasteners Sdn Bhd	
Taizhou Dajiang Ind. Co., Ltd.	
Team Builder Enterprise Ltd.	
Test-Rite International Co., Ltd.	
The Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley	
Black & Decker Inc.	
Theps International	
Tian Heng Xiang Metal Products Co., Ltd.	
Tianjin Baisheng Metal Products Co., Ltd.	
Tianjin Bluekin Industries Ltd.	
Tianjin Coways Metal Products Co., Ltd.	
Tianjin Dagang Jingang Nail Factory	
Tianjin Evangel Imp. & Exp. Co., Ltd.	
Tianjin Fulida Supply Co., Ltd.	
Tianjin High Wing International	
Tianjin Hongli Qiangsheng Imp. & Exp.	
Tianjin Huixinshangmao Co., Ltd.	
Tianjin Hweschun Fasteners Manufacturing Co., Ltd.	
Tianjin Jin Xin Sheng Long Metal Products Co., Ltd.	
Tianjin Jinchi Metal Products Co., Ltd.	
Tianjin Jinghai County Hongli Industry & Business Co., Ltd.	
Tianjin Jinghai County Hongli Industry and Business Co., Ltd.	
Tianjin Jinghai Yicheng Metal Pvt	
Tianjin Jinjin Pharmaceutical Factory	
Tianjin Jinmao Imp. & Exp. Corp., Ltd.	
Tianjin Jinyifeng Hardware Co., Ltd.	
Tianjin Jinzhuang Hardware Factory	
Tianjin Lianda Group Co., Ltd.	
Tianjin Liweitian Metal Technology	
Tianjin Tialai Import & Export Company Ltd.	
Tianjin Tianhua Environmental Plastics Co., Ltd.	
Tianjin Universal Machinery Imp. & Exp. Corp.	

	Period to be reviewed
Tianjin Yong Sheng Towel Mill	
Tianjin Yongye Furniture Co., Ltd.	
Tianjin Zhengjun Trade Company Limited	
Tianjin Zhonglian Metals Ware Co., Ltd.	
Tianjin Zhonglian Times Technology	
Tianjin Zhongsheng Garment Co., Ltd.	
Topworks Ltd.	
Total Glory Logistics Co., Ltd. (Qingdao)	
Trinity Steel Private Limited	
Tsugaru Enterprise Co., Ltd.	
Ujl Industries Co., Ltd.	
Unicorn Fasteners Co., Ltd.	
Verko Incorporated	
Walkbase Rubber Products Co., Ltd.	
Walsoon Trading Co., Ltd.	
Weifang Wenhe Pneumatic Tools Co., Ltd.	
Wenzhou Yodsn Fluid Equipment Co., Ltd.	
Win Fasteners Manufactory (Thailand) Co., Ltd.	
Wire Products Manufacturing Co., Ltd.	
Wuhu Diamond Metal Products Co., ltd	
Wulian Zhanpeng Metals Co., Ltd.	
Wuxi Holtrent International Co., Ltd.	
Wuxi Yushea Furniture Co., Ltd.	
Xi'An Metals and Minerals Imp. & Exp. Co., Ltd.	
Xiamen Hongju Printing Industry &trade Co., Ltd.	
Xuzhou Cip International Group Co, Ltd.	
Yiwu Competency Trading Co., Ltd.	
Yiwu Kingland Import & Export Co.	
Yiwu Taisheng Decoration Materials Limited	
Yiwu Yipeng Import & Export Co., Ltd.	
Yongchang Metal Product Co., Ltd.	
Youngwoo Fasteners Co., Ltd.	
Yuyao Dingfeng Engineering Co. Ltd.	
Zhanghaiding Hardware Co., Ltd.	
Zhangjiagang Lianfeng Metals Products Co., Ltd.	
Zhangjiagang Longxiang Industries Co., Ltd.	
Zhaoqing Harvest Nails Co., Ltd.	
Zhejiang Best Nail Industry Co., Ltd.	
Zhejiang Jihengkang (JHK) Door Ind. Co., Ltd.	
Zhejiang Rongpeng Imp. & Exp. Co., Ltd	
Zhejiang Saiteng New Building Materials Co., Ltd.	
Zhejiang Yiwu Yongzhou Imp. & Exp. Co., Ltd.	
Zhong Shan Daheng Metal Products Co., Ltd.	
Zhong Shan Shen Neng Metal Products Co., Ltd.	
Zhucheng Jinming Metal Products Co., Ltd.	
Zhucheng Runfang Paper Co., Ltd.	
Zhuhai Trillion Trading Co., Ltd	
Zon Mon Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Laminated Woven Sacks, A–570–916	8/1/18–7/31/19
Cangnan Color Make The Bag	
Changle Baodu Plastic Co., Ltd.	
First Way (H.K.) Limited	
Han Shing Chemical Co., Ltd.	
Jiangsu Hotson Plastics Co., Ltd.	
Ningbo Yong Feng Packaging Co., Ltd.	
Polywell Industrial Co.	
Polywell Plastic Product Factory	
Shandong Longxing Plastic Products Company Ltd.	
Shandong Qikai Plastics Product Co., Ltd.	
Shandong Qilu Plastic Fabric Group, Ltd.	
Shandong Shouguang Jianyuan Chun Co., Ltd.	
Shandong Youlian Co., Ltd.	
Wenzhou Hotson Plastics Co., Ltd.	
Zibo Aifudi Plastic Packaging Co., Ltd.	
Zibo Linzi Luitong Plastic Fabric Co., Ltd.	
Zibo Linzi Qitianli Plastic Fabric Co., Ltd.	
Zibo Linzi Shuaiqiang Plastics Co., Ltd.	
Zibo Linzi Worun Packing Product Co., Ltd.	
Zibo Qigao Plastic Cement Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Polyethylene Retail Carrier Bags, A–570–886	8/1/18–7/31/19
Crown Polyethylene Products (International) Ltd.	
Dongguan Nozawa Plastics Products Co., Ltd. and United Power Packaging, Ltd. (collectively Nozawa)	
Countervailing Duty Proceedings	
INDIA: Finished Carbon Steel Flanges, C–533–872	1/1/18–12/31/18

	Period to be reviewed
Adinath International	
Allena Group	
Alloyed Steel	
Bansidhar Chiranjilal	
Bebitz Flanges Works Private Limited	
Bebitz U.S.A., Inc.	
C.D. Industries	
CHW Forge	
CHW Forge Pvt. Ltd.	
Citizen Metal Depot	
Corum Flange	
DN Forge Industries	
Echjay Forgings Limited	
Falcon Valves and Flanges Private Limited	
Heubach International	
Hindon Forge Pvt. Ltd.	
Jai Auto Pvt. Ltd.	
Kinnari Steel Corporation	
M F Rings and Bearing Races Ltd.	
Mascot Metal Manufacturers	
Norma (India) Limited	
OM Exports	
Punjab Steel Works (PSW)	
R.D. Forge	
R.N. Gupta & Company, Ltd.	
Raaj Sagar Steels	
Ravi Ratan Metal Industries	
Rolex Fittings India Pvt. Ltd.	
Rollwell Forge Pvt. Ltd.	
SHM (ShinHeung Machinery)	
Siddhagiri Metal & Tubes	
Silbo Industries, Inc.	
Sizer India	
Steel Shape India	
Sudhir Forgings Pvt. Ltd.	
Tirupati Forge	
Uma Shanker Khandelwal & Co.	
Umashanker Khandelwal Forging Limited	
USK Export Private Limited	
SPAIN: Ripe Olives, C–469–818	11/28/17–12/31/18
Agro Sevilla Aceitunas S.COOP (And.)	
Alimentary Group DCoop S.Coop. And.	
Angel Camacho Alimentacion, S.L.	
THE PEOPLE'S REPUBLIC OF CHINA: Cast Iron Soil Pipe Fittings, C–570–063	12/19/17–12/31/18
Dalian Lino F.T.Z. Co., Ltd.	
Dalian Metal I/E Co., Ltd.	
Dinggin Hardware (Dalian) Co., Ltd.	
Golden Orange International Ltd.	
Hebei Metals & Engineering Products Trading Co., Ltd.	
Qinshui Shunshida Casting Co., Ltd.	
Richang Qiaoshan Trade Co., Ltd.	
Shanxi Zhongrui Tianyue Trading Co., Ltd	
Shijiazhuang Asia Casting Co., Ltd.	
Wor-Biz Trading Co., Ltd. (Anhui)	
Yangcheng County Huawang Universal	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Passenger Vehicle and Light Truck Tires, C–570–017	1/1/18–12/31/18
Cooper (Kunshan) Tire Co., Ltd.	
Hankook Tire China Co., Ltd.	
Haohua Orient International Trade Ltd.	
Jiangsu Hankook Tire Co., Ltd.	
Qingdao Fullrun Tech Tyre Corp., Ltd.	
Qingdao Fullrun Tyre Corp., Ltd.	
Qingdao Keter International Co., Limited	
Qingdao Lakesea Tyre Co., Ltd.	
Qingdao Odyking Tyre Co., Ltd.	
Qingdao Powerich Tyre Co., Ltd.	
Qingdao Sentury Tire Co., Ltd.	
Riversun Industry Limited	
Safe & Well (HK) International Trading Limited	
Shandong Anchi Tyres Co., Ltd.	
Shandong Duratti Rubber Corporation Co., Ltd.	
Shandong Guofeng Rubber Plastics Co., Ltd.	
Shandong Hengyu Science & Technology Co., Ltd.	
Shandong Linglong Tyre Co., Ltd.	

	Period to be reviewed
Shandong Longyue Rubber Co., Ltd., DBA ZODO Tire Co., Ltd.	
Shandong New Continent Tire Co., Ltd.	
Shandong Province Sanli Tire Manufactured Co., Ltd.	
Shandong Wanda Boto Tyre Co., Ltd.	
Shandong Yongsheng Rubber Group Co., Ltd.	
Shouguang Firemax Tyre Co., Ltd.	
Triangle Tyre Co., Ltd.	
Windforce Tyre Co., Limited	
Zhaoqing Junhong Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Laminated Woven Sacks, C–570–917	1/1/18–12/31/18
Cangnan Color Make The Bag	
Changle Baodu Plastic Co., Ltd.	
First Way (H.K.) Limited	
Han Shing Chemical Co., Ltd.	
Jiangsu Hotson Plastics Co., Ltd.	
Ningbo Yong Feng Packaging Co., Ltd.	
Polywell Industrial Co.	
Polywell Plastic Product Factory	
Shandong Longxing Plastic Products Company Ltd.	
Shandong Qikai Plastics Product Co., Ltd.	
Shandong Qilu Plastic Fabric Group, Ltd.	
Shandong Shouguang Jianyuan Chun Co., Ltd.	
Shandong Youlian Co., Ltd.	
Wenzhou Hotson Plastics Co., Ltd.	
Zibo Aifudi Plastic Packaging Co., Ltd.	
Zibo Linzi Luitong Plastic Fabric Co., Ltd.	
Zibo Linzi Qitianli Plastic Fabric Co., Ltd.	
Zibo Linzi Shuaiqiang Plastics Co., Ltd.	
Zibo Linzi Worun Packing Product Co., Ltd.	
Zibo Qigao Plastic Cement Co., Ltd.	

Suspension Agreements

None

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Factual Information Requirements

Commerce's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.[8] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any

[5] In the initiation notice that published on September 9, 2019 (84 FR 47242) the POR for the above referenced case was incorrect. The period listed above is the correct POR for this case.

[6] The review request listed this company as SC TMK-Artom S.A. However, the correct spelling of the company name is SC TMK-Artrom S.A.

[7] In the initiation notice that published on September 9, 2019 (84 FR 47242) the POR for the above referenced case was incorrect. The period listed above is the correct POR for this case.

[8] *See* section 782(b) of the Act.

antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule.*[9] Commerce intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. *See* 19 CFR 351.302. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning CBP data; and (5) Q&V questionnaires. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which Commerce will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

[9] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* the frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: October 1, 2019.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2019–21822 Filed 10–4–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 18–1A002]

Export Trade Certificate of Review

ACTION: Notice of Application for an amended Export Trade Certificate of Review for Alaska Groundfish Commission (''AGC''), Application Number 18–1A002.

SUMMARY: The Office of Trade and Economic Analysis (''OTEA'') of the International Trade Administration, Department of Commerce, received an application for an amended Export Trade Certificate of Review (''Certificate''). This notice summarizes the proposed application and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Joseph Flynn, Director, Office of Trade and Economic Analysis, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or email at *etca@trade.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) (''the Act'') authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. The regulations implementing Title III are found at 15 CFR part 325. OTEA is issuing this notice pursuant to 15 CFR 325.6(a), which requires the Secretary of Commerce to publish a summary of the application in the **Federal Register**, identifying the applicant and each member and summarizing proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked as privileged or confidential business information will be deemed to be nonconfidential.

An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce, Room 21028, Washington, DC 20230.

Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 18–1A002.''

Summary of the Application

Applicant: Alaska Groundfish Commission.

Contact: Duncan R. McIntosh, Mundt MacGregor L.L.P, (206) 319–1105.

Application No.: 18–1A002.

Date Deemed Submitted: September 24, 2019.

Proposed Amendment: AGC seeks to amend its Certificate as follows:

- Add following as Members of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)).

○ America's Finest Fishing, LLC, Kirkland, WA
○ Arica Vessel, LLC, Seattle, WA
○ Cape Horn Vessel, LLC, Seattle, WA
○ Fisherman's Finest International, Inc., Kirkland, WA
○ Fishermen's Finest, Inc., Kirkland, WA
○ Fishermen's Finest Holdings, LLC, Kirkland, WA
○ Glacier Fish Company LLC, Seattle, WA
○ Golden-Tech International, LLC, Bellevue, WA
○ Iquique Disc, Inc., Seattle, WA
○ North Pacific Fishing, LLC, Kirkland, WA
○ North Star Fishing Company LLC, Seattle, WA
○ North Star Vessel, LLC, Seattle, WA
○ Rebecca Irene Vessel, LLC, Seattle, WA
○ Unimak Vessel, LLC, Seattle, WA
○ United States Seafoods, LLC, Seattle, WA

○ US Fishing, LLC, Kirkland, WA
○ USS International, Inc., Seattle, WA

The proposed amendment would result in the following 24 Members:

1. AK Victory, Inc., Seattle, WA
2. Alaska Warrior, Inc., Seattle, WA
3. America's Finest Fishing, LLC, Kirkland, WA
4. Arica Vessel, LLC, Seattle, WA
5. Cape Horn Vessel, LLC, Seattle, WA
6. Fisherman's Finest International, Inc., Kirkland, WA
7. Fishermen's Finest, Inc., Kirkland, WA
8. Fishermen's Finest Holdings, LLC, Kirkland, WA
9. Glacier Fish Company LLC, Seattle, WA
10. Golden-Tech International, LLC, Bellevue, WA
11. Iquique Disc, Inc., Seattle, WA
12. M/V Savage, Inc., Seattle, WA
13. North Pacific Fishing, LLC, Kirkland, WA
14. North Star Fishing Company LLC, Seattle, WA
15. North Star Vessel, LLC, Seattle, WA
16. O'Hara Corporation, Rockland, ME
17. O'Hara DISC, Inc., Rockland, ME
18. Ocean Peace, Inc., Seattle, WA
19. Rebecca Irene Vessel, LLC, Seattle, WA
20. The Fishing Company of Alaska, Inc., Seattle, WA
21. Unimak Vessel, LLC, Seattle, WA
22. United States Seafoods, LLC, Seattle, WA
23. US Fishing, LLC, Kirkland, WA
24. USS International, Inc., Seattle, WA

Dated: October 2, 2019.

Joseph Flynn,

Director, Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 2019–21813 Filed 10–4–19; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV098

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Skate Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday October 22, 2019 at 9 a.m.

ADDRESSES: The meeting will be held at the New Bedford Harbor Hotel, 222 Union Street, New Bedford, MA 02740; phone: (508) 999–1292.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Skate Advisory Panel will discuss Amendment 5/Limited Access to the skate fishery and review Plan Development Team (PDT) analyses to date; continued discussion on the structure of a limited access program for the skate bait and wing fisheries including draft alternatives. The Advisory Panel will make recommendations to the Skate Committee. Other business may be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date. This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

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

Dated: October 2, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–21812 Filed 10–4–19; 8:45 am]

BILLING CODE 3510–22–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Senior Corps Project Progress Report; Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS) has submitted a public information collection request (ICR) entitled Senior Corps Project Progress Report for review and approval in accordance with the Paperwork Reduction Act.

DATES: Comments may be submitted, identified by the title of the information collection activity, by November 6, 2019.

ADDRESSES: Direct written comments and/or suggestions regarding the items contained in this Notice to the Attention: CNCS Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of Notice publication.

FOR FURTHER INFORMATION CONTACT: Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Anne Otih, at 202–606–7570 or by email to *aotih@cns.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment was published in the **Federal Register** on July 18, 2019 at Vol. 84, No. 138. This comment period ended September 16, 2019. No public comments were received from this Notice.

Title of Collection: Senior Corps Project Progress Report (PPR).

OMB Control Number: 3045–0033.

Type of Review: Renewal.

Respondents/Affected Public: Sponsors of Senior Corps Grants.

Total Estimated Number of Annual Responses: 1,100.

Total Estimated Number of Annual Burden Hours: 17,600 (Work Plans and narratives, semi-annual: Four hours per response. Progress Report Supplemental, annual: eight hours per response.).

Abstract: The Progress Report (PPR) was designed to ensure that Senior Corps' programs (RSVP, Foster Grandparent, and Senior Companion Programs) address and fulfill legislated program purposes; meet agency program management and grant requirements; track and measure progress to benefit the local project and its contributions to senior volunteers and the community; and report progress toward work plan objectives agreed upon in the granting of the award. The resulting data is used by grantees and CNCS to track performance and inform continued grant funding support, as well as to identify trends and to support management and analysis. CNCS seeks to renew and revise current OMB approved PPR to align with recent national performance measures changes and to remove administrative burdens. CNCS also seeks to continue using the current tool until the revised application is approved by OMB. The current tool is due to expire on December 31, 2019.

Dated: October 1, 2019.

Deborah Cox-Roush,

Director, Senior Corps.

[FR Doc. 2019–21711 Filed 10–4–19; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Department of the Air Force

Notice To Extend Public Comment Period for the Draft Environmental Impact Statement for the United States Air Force F–35A Operational Beddown Air National Guard

AGENCY: Department of the Air Force.

ACTION: Notification of extension of public comment period.

SUMMARY: The U.S. Air Force is issuing this notice to advise the public of an extension to the public comment period. The initial Notice of Availability was published in the **Federal Register** on August 9, 2019 (Vol. 84, No. 154/Notices/39296), and established a public comment period from August 9, 2019 through September 27, 2019. The Air Force has extended the deadline for submitting public comments to November 1, 2019. All substantive comments received by November 1, 2019 will be addressed in the Public Comment Section of the Final EIS.

FOR FURTHER INFORMATION CONTACT: Mr. Ramon Ortiz, NGB/A4AM, 3501 Fetchet Avenue, Joint Base Andrews, MD 20762–5157, ph: (240) 612–7042.

Adriane Paris,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2019–21860 Filed 10–4–19; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–359–C]

Application To Export Electric Energy; Castleton Commodities Merchant Trading L.P.

AGENCY: Office of Electricity, Department of Energy.

ACTION: Notice of application.

SUMMARY: Castleton Commodities Merchant Trading L.P. (Applicant or CCMT) has applied to renew its authorization to transmit electric energy from the United States to Canada pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before November 6, 2019.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to (202)586–8008.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) regulates exports of electricity from the United States to a foreign country, pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b) and 7172(f)). Such exports require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On October 2, 2014, DOE issued Order No. EA–359–B, which authorized CCMT to transmit electric energy from the United States to Canada as a power marketer for a five-year term using existing international transmission facilities. That authorization expires on October 5, 2019. On September 27, 2019, CCMT filed an application with DOE for renewal of the export authorization contained in Order No. EA–359–B for an additional five-year term.

In its application, the Applicant states that it ''does not currently own or control electric generation or transmission facilities, and does not have a power supply of its own in the United States on which its exports of power could have a reliability, fuel use or system stability impact.'' Affiliates of the Applicant do own generating facilities, but ''neither Applicant nor any of its affiliates owns or controls any electric power . . . transmission facilities and none of them has a franchised electric power service area.'' The electric energy that the Applicant proposes to export to Canada would be surplus energy purchased from third parties, such as wholesale generators, electric utilities and Federal power marketing agencies, pursuant to voluntary agreements. The existing international transmission facilities to be utilized by the Applicant have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five (5) copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning CCMT's application to export electric energy to Canada should be clearly marked with OE Docket No. EA–359–C. An additional copy is to be provided directly to both Daniel E.

Frank, Eversheds Sutherland (US) LLP, 700 Sixth Street NW, Suite 700, Washington, DC 20001–3980 and Compliance Department, Castleton Commodities International LLC, 811 Main Street, Suite 3500, Houston, TX 77002.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE determines that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program website at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov*.

Signed in Washington, DC, on October 1, 2019.

Christopher Lawrence,

Management and Program Analyst, Transmission Permitting and Technical Assistance Office of Electricity.

[FR Doc. 2019–21815 Filed 10–4–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2333–091–Maine]

Rumford Falls Hydro, LLC; Notice of Environmental Site Review

On September 27, 2019, Rumford Falls Hydro, LLC filed a Notice of Intent (NOI) and Pre-Application Document to re-license its 44.5-megawatt Rumford Falls Hydroelectric Project No. 2333. The Federal Energy Regulatory Commission (Commission) will conduct an environmental site review for the project on October 24, 2019. The project is located on the Androscoggin River, in Oxford County, Maine.

The environmental site review is being held to provide all stakeholders, interested in the project's future relicensing proceedings, an opportunity to view the project's facilities and surrounding areas.

Under the Commission's Integrated Licensing Process, the Commission conducts its National Environmental Policy Act (NEPA) scoping meeting within 90 days of the filing of the licensee's NOI. An environmental site review is typically held in conjunction with that scoping meeting. However, access to some project facilities may be limited by winter weather during December of 2019 when scoping for this project is currently anticipated. For this reason, the Commission will conduct the environmental site review in October before the onset of winter; additional site reviews will not be conducted in conjunction with NEPA scoping meetings for the project in December of 2019. Therefore, we are waiving 5.8(b)(viii) of the Commission's regulations requiring an environmental site review within 30 days of issuance of a notice of commencement of proceeding to facilitate the early environmental site review. The Commission encourages all interested parties to participate in the October environmental site review to facilitate productive scoping meetings later this year. Details of the project specific environmental site review follow.

Date and Time: October 24, 2019 at 9:00 a.m.

Location: Rumford Falls Hydroelectric Project, 299 Prospect Avenue (Route 2), Rumford, Maine 04276.

Directions and Logistics

Please notify Mr. Randy Dorman of Great Lakes Hydro America at (207) 755-5605 or at *randy.dorman@brookfieldrenewable.com* on or before October 21, 2019, if you plan to attend the environmental site review.

If you need further logistical information or directions, please contact the Mr. Randy Dorman with the information above. All other questions regarding the environmental site review or the Commission's Integrated Licensing Process may be directed to Ryan Hansen of the Commission's staff at (202) 502–8074 or via email at: *ryan.hansen@ferc.gov.*

Dated: October 1, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–21791 Filed 10–4–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–509–000]

Notice of Intent To Prepare an Environmental Assessment for the Texas Eastern Transmission, LP Proposed Marshall County Mine Panel 19E Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Marshall County Mine Panel 19E Project involving construction and operation of facilities by Texas Eastern Transmission, LP (Texas Eastern) in Marshall County, West Virginia. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies about issues regarding the project. The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity/authorization. NEPA also requires the Commission to discover concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of issues to address in the EA. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on October 31, 2019.

You can make a difference by submitting your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Commission staff will consider all filed comments during the preparation of the EA.

If you sent comments on this project to the Commission *before* the opening of this docket on September 4, 2019, you will need to file those comments in Docket No. CP19–509–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would

seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law.

Texas Eastern provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC website (*www.ferc.gov*) at *https://www.ferc.gov/resources/guides/gas/gas.pdf.*

Public Participation

The Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. To sign up go to *www.ferc.gov/docs-filing/esubscription.asp.*

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on *eRegister.* You will be asked to select the type of filing you are making; a comment on a particular project is considered a Comment on a Filing; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP19–509–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426

Summary of the Proposed Project

Texas Eastern proposes to excavate and elevate pipeline segments of its Lines 10, 15, 25, and 30, and these pipelines range from 30-inch to 36-inch-diameter. Concurrent with pipeline elevation, portions of Lines 10 and 15 will be replaced with new pipe to accommodate a minimum Class 2 design.[1] Texas Eastern would also perform maintenance activities on segments of Lines 25 and 30. The four mainline segments will remain in-service and be elevated using sandbags and skids for about 18 months until the longwall mining activities have completed and any potential ground subsidence has settled. Once any longwall mining-induced subsidence and the 2020–2021 heating season have both ended, the four elevated pipeline segments will be re-installed belowground, hydrostatically tested, and placed back into service. Texas Eastern estimates such activities will be completed in approximately October 2021.

The general location of the project facilities is shown in appendix 1.[2]

Land Requirements for Construction

Construction workspace would disturb about 34.2 acres of land for the pipeline excavation, elevation, and/or replacement. Following construction, Texas Eastern would maintain about 12.0 acres of existing right-of-way for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses.

The EA Process

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use;
- air quality and noise;
- public safety; and
- cumulative impacts

Commission staff will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present Commission staffs' independent analysis of the issues. The EA will be available in electronic format in the public record through eLibrary[3] and the Commission's website (*https://www.ferc.gov/industries/gas/enviro/eis.asp*). If eSubscribed, you will receive instant email notification when the EA is issued. The EA may be issued for an allotted public comment period. Commission staff will consider all comments on the EA before making recommendations to the Commission. To ensure Commission staff have the opportunity to address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate in the preparation of the EA.[4] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office(s), and to solicit their views and those of other

[1] Lines 10 and 15 were installed prior to the Natural Gas Pipeline Safety Act, and are grandfathered to operate at greater than 72% of Specified Minimum Yield Strength. The portions of these pipelines included in this Project will be replaced with pipe that meets or exceeds the current Pipeline and Hazardous Materials Safety Administration regulations. See 49 CFR 192.611(a) (2019).

[2] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE, Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] For instructions on connecting to eLibrary, refer to the last page of this notice.

[4] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[5] The EA for this project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If the Commission issues the EA for an allotted public comment period, a *Notice of Availability* of the EA will be sent to the environmental mailing list and will provide instructions to access the electronic document on the FERC's website (*www.ferc.gov*). *If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please return the attached ''Mailing List Update Form'' (appendix 2).*

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on General Search and enter the docket number in the Docket Number field, excluding the last three digits (*i.e.,* CP09–509). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: October 1, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–21789 Filed 10–4–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e) (1) (v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202)502–8659.

Docket No.	File date	Presenter or requestor
Prohibited:		
None.		
Exempt:		
CP17–40–000	9–23–2019	U.S. Congressman Rodney Davis.
CP17–40–001		

[5] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

Dated: October 1, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–21786 Filed 10–4–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL19–102–000]

Wolverine Power Supply Cooperative, Inc. v. Midcontinent Independent System Operator, Inc.; Notice of Complaint

Take notice that on September 27, 2019, pursuant to sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824e and 825e and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, Wolverine Power Supply Cooperative, Inc. (Complainant) filed a formal complaint against Midcontinent Independent System Operator, Inc., (Respondent or MISO) alleging that, Respondent's rules governing the Planning Resource Auction (PRA) is unjust and unreasonable because the PRA fails to establish an appropriate forward price signal and identify the real cost of maintaining reliability, all as more fully explained in the complaint.

The Complainant certifies that copies of the complaint were served on the contacts listed for Respondent in the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on October 17, 2019.

Dated: October 1, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–21788 Filed 10–4–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–2908–000]

Tenaska Clear Creek Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Tenaska Clear Creek Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 21, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 1, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–21792 Filed 10–4–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG19–191–000.

Applicants: Tenaska Clear Creek Wind, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 9/30/19.

Accession Number: 20190930–5171.

Comments Due: 5 p.m. ET 10/21/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–162–024; ER13–1266–025; ER11–2044–029; ER15–2211–022.

Applicants: Bishop Hill Energy II LLC, CalEnergy, LLC, MidAmerican Energy Company, MidAmerican Energy Services, LLC.

Description: Notice of Non-Material Change in Status of the Berkshire Hathaway Central Parties, *et al.*

Filed Date: 9/30/19.

Accession Number: 20190930–5209.

Comments Due: 5 p.m. ET 10/21/19.

Docket Numbers: ER19–2909–000.

Applicants: Basin Electric Power Cooperative.

Description: Baseline eTariff Filing: Basin Electric Submission of Rate Schedule A to be effective 12/31/9998.

Filed Date: 9/30/19.

Accession Number: 20190930–5179.

Comments Due: 5 p.m. ET 10/21/19.

Docket Numbers: ER19–2910–000.

Applicants: Basin Electric Power Cooperative.

Description: Baseline eTariff Filing: Basin Electric Submission of Transmission-Related Agreements to be effective 12/31/9998.

Filed Date: 9/30/19.

Accession Number: 20190930–5187.

Comments Due: 5 p.m. ET 10/21/19.

Docket Numbers: ER19–2911–000.

Applicants: Basin Electric Power Cooperative.

Description: Baseline eTariff Filing: Basin Electric Submission of Open Access Transmission Tariff and ATRR to be effective 12/31/9998.

Filed Date: 9/30/19.

Accession Number: 20190930–5188.

Comments Due: 5 p.m. ET 10/21/19.

Docket Numbers: ER19–2912–000.

Applicants: Arizona Public Service Company.

Description: § 205(d) Rate Filing: Rate Schedule Nos. 295, 296 & 297 to be effective 12/1/2019.

Filed Date: 9/30/19.

Accession Number: 20190930–5189.

Comments Due: 5 p.m. ET 10/21/19.

Docket Numbers: ER19–2913–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–09–30_Default Technology Specific Avoidable Costs Filing to be effective 11/30/2019.

Filed Date: 9/30/19.

Accession Number: 20190930–5190.

Comments Due: 5 p.m. ET 10/21/19.

Docket Numbers: ER19–2914–000.

Applicants: Puget Sound Energy, Inc.

Description: § 205(d) Rate Filing: NITSA, NOA, IA Between Air Products & PSE to be effective 9/1/2019.

Filed Date: 9/30/19.

Accession Number: 20190930–5195.

Comments Due: 5 p.m. ET 10/21/19.

Docket Numbers: ER19–2915–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Revisions to Operating Agreement, Schedule 6, sec 1.5 re: Cost Commitment to be effective 1/1/2020.

Filed Date: 9/30/19.

Accession Number: 20190930–5196.

Comments Due: 5 p.m. ET 10/21/19.

Docket Numbers: ER19–2916–000.

Applicants: Calpine Mid-Merit II, LLC.

Description: § 205(d) Rate Filing: Reactive Power Rate Schedule to be effective 11/1/2019.

Filed Date: 9/30/19.

Accession Number: 20190930–5197.

Comments Due: 5 p.m. ET 10/21/19.

Docket Numbers: ER19–2917–000.

Applicants: Basin Electric Power Cooperative, Inc.

Description: Request for Waivers and Extensions of Filing Deadlines of Basin Electric Power Cooperative.

Filed Date: 9/30/19.

Accession Number: 20190930–5205.

Comments Due: 5 p.m. ET 10/21/19.

Docket Numbers: ER20–1–000.

Applicants: Basin Electric Power Cooperative.

Description: Baseline eTariff Filing: Basin Electric Application for MBR Authority and Request for Expedited Action to be effective 12/31/9998.

Filed Date: 10/1/19.

Accession Number: 20191001–5002.

Comments Due: 5 p.m. ET 10/22/19.

Docket Numbers: ER20–2–000.

Applicants: Basin Electric Power Cooperative.

Description: Initial rate filing: Basin Electric Submission of Wholesale Power Contract FERC Rate Schedules 1–19 to be effective 12/31/9998.

Filed Date: 10/1/19.

Accession Number: 20191001–5003.

Comments Due: 5 p.m. ET 10/22/19.

Docket Numbers: ER20–3–000.

Applicants: Midcontinent Independent System Operator, Inc., Michigan Electric Transmission Company.

Description: § 205(d) Rate Filing: 2019–10–1_Depreciation Rate Filing METC to be effective 12/1/2019.

Filed Date: 10/1/19.

Accession Number: 20191001–5011.

Comments Due: 5 p.m. ET 10/22/19.

Docket Numbers: ER20–4–000.

Applicants: Midcontinent Independent System Operator, Inc., International Transmission Company.

Description: § 205(d) Rate Filing: 2019–10–1_Depreciation Rate Filing ITCT to be effective 12/1/2019.

Filed Date: 10/1/19.

Accession Number: 20191001–5016.

Comments Due: 5 p.m. ET 10/22/19.

Docket Numbers: ER20–5–000.

Applicants: Midcontinent Independent System Operator, Inc., ITC Midwest LLC.

Description: § 205(d) Rate Filing: 2019–10–1_Depreciation Rate Filing ITCM to be effective 12/1/2019.

Filed Date: 10/1/19.

Accession Number: 20191001–5017.

Comments Due: 5 p.m. ET 10/22/19.

Docket Numbers: ER20–6–000.

Applicants: Alcoa Power Generating Inc.

Description: § 205(d) Rate Filing: Reactive Power Rate Schedule to be effective 12/1/2019.

Filed Date: 10/1/19.

Accession Number: 20191001–5020.

Comments Due: 5 p.m. ET 10/22/19.

Docket Numbers: ER20–7–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 2900R12 KMEA NITSA NOA to be effective 9/1/2019.

Filed Date: 10/1/19.

Accession Number: 20191001–5075.

Comments Due: 5 p.m. ET 10/22/19.

Docket Numbers: ER20–8–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1313R12 Oklahoma Gas and Electric Company NITSA and NOA to be effective 9/1/2019.

Filed Date: 10/1/19.

Accession Number: 20191001–5109.

Comments Due: 5 p.m. ET 10/22/19.

Docket Numbers: ER20–9–000.

Applicants: New York Independent System Operator, Inc., Niagara Mohawk Power Corporation.

Description: § 205(d) Rate Filing: Joint LGIA filing among NYISO, NMPC and Cassadaga Wind SA 2475 to be effective 9/17/2019.

Filed Date: 10/1/19.

Accession Number: 20191001–5113.

Comments Due: 5 p.m. ET 10/22/19.

Docket Numbers: ER20–10–000.

Applicants: Arizona Public Service Company.

Description: § 205(d) Rate Filing: OATT Attachment Q—Unaccounted for Energy to be effective 12/1/2019.

Filed Date: 10/1/19.

Accession Number: 20191001–5120.

Comments Due: 5 p.m. ET 10/22/19.

Docket Numbers: ER20–11–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–10–01_True-up Filing for Order 831 Energy Offer Cap to be effective 12/1/2019.

Filed Date: 10/1/19.

Accession Number: 20191001–5152.

Comments Due: 5 p.m. ET 10/22/19.

Docket Numbers: ER20–12–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3125R7 Basin Electric Power Cooperative NITSA and NOA to be effective 9/1/2019.

Filed Date: 10/1/19.
Accession Number: 20191001–5158.
Comments Due: 5 p.m. ET 10/22/19.

Docket Numbers: ER20–13–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2019–10–01_TO Attachment O's and ADIT Proration Filing to be effective 1/1/2019.
Filed Date: 10/1/19.
Accession Number: 20191001–5173.
Comments Due: 5 p.m. ET 10/22/19.

Docket Numbers: ER20–14–000.
Applicants: Alabama Power Company.
Description: § 205(d) Rate Filing: Sunflower Solar (Lucedale Solar Project) LGIA Filing to be effective 9/17/2019.
Filed Date: 10/1/19.
Accession Number: 20191001–5233.
Comments Due: 5 p.m. ET 10/22/19.

Docket Numbers: ER20–15–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amended ISA SA No. 5227; Queue No. AB2–158 to be effective 10/8/2018.
Filed Date: 10/1/19.
Accession Number: 20191001–5263.
Comments Due: 5 p.m. ET 10/22/19.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES19–70–000.
Applicants: West Penn Power Company.
Description: Application under Section 204 of the Federal Power Act for Authorization to Issue Securities of West Penn Power Company.
Filed Date: 9/27/19.
Accession Number: 20190927–5194.
Comments Due: 5 p.m. ET 10/18/19.

Docket Numbers: ES19–71–000.
Applicants: Basin Electric Power Cooperative, Inc.
Description: Application under Section 204 of the Federal Power Act for Authorization to Issue Securities, et al. of Basin Electric Power Cooperative.
Filed Date: 9/30/19.
Accession Number: 20190930–5200.
Comments Due: 5 p.m. ET 10/21/19.

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: October 1, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–21795 Filed 10–4–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF19–5–000]

Notice of Intent To Prepare an Environmental Assessment Statement for the Sempra PALNG Holdings, LLC Planned Port Arthur LNG Expansion Project, and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Port Arthur LNG Expansion Project (Project) involving construction and operation of facilities by Sempra PALNG Holdings, LLC (Sempra) in Jefferson County, Texas. The Commission will use this EA in its decision-making process to determine whether the project is in the public interest.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies about issues regarding the project. The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from its action whenever it considers the issuance of an authorization. NEPA also requires the Commission to discover concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of issues to address in the EA. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on November 12, 2019.

You can make a difference by submitting your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Commission staff will consider all filed comments during the preparation of the EA.

If you sent comments on this project to the Commission *before* the opening of this docket on June 14, 2019, you will need to file those comments in Docket No. PF19–5–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this planned project and encourage them to comment on their areas of concern.

A fact sheet prepared by the FERC entitled An Interstate Natural Gas Facility On My Land? What Do I Need To Know? is available for viewing on the FERC website (*www.ferc.gov*) at *https://www.ferc.gov/resources/guides/gas/gas.pdf.* This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Public Participation

The Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. To sign up go to *www.ferc.gov/docs-filing/esubscription.asp.*

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature, which is on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature, which is also on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on *eRegister.* You will be asked to select the type of filing you are making; a comment on a particular project is considered a Comment on a Filing; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (PF19–5–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426

Summary of the Planned Project

Sempra plans to construct and operate additional liquefaction capacity at the site of the recently approved Port Arthur Liquefaction Project near Port Arthur, Texas. The planned expansion would add two liquefaction trains, increasing liquefied natural gas production capacity from 13.5 million metric tons per annum (MTPA) to approximately 27.0 MTPA.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Construction and operation of the planned project would be wholly within property already certificated for the Port Arthur Liquefaction Project. No additional land would be required. The Project facilities, once constructed, would occupy approximately 60 acres.

The EA Process

The EA will discuss impacts that could occur as a result of the construction and operation of the planned project under these general headings:

- Geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- socioeconomics;
- land use;
- air quality and noise;
- public safety; and
- cumulative impacts

Commission staff will also evaluate possible alternatives to the planned project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Although no formal application has been filed, Commission staff have already initiated a NEPA review under the Commission's pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before the Commission receives an application. As part of the pre-filing review, Commission staff will contact federal and state agencies to discuss their involvement in the scoping process and the preparation of the EA.

The EA will present Commission staffs' independent analysis of the issues. The EA will be available in electronic format in the public record through eLibrary[2] and the Commission's website (*https://www.ferc.gov/industries/gas/enviro/eis.asp*). If eSubscribed, you will receive instant email notification when the EA is issued. The EA may be issued for an allotted public comment period. Commission staff will consider all comments on the EA before making recommendations to the Commission. To ensure Commission staff have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues related to this project to formally cooperate in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office, and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] The EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes: Federal, state, and local government representatives and agencies; elected officials; and other interested parties. This list also includes all affected landowners (as defined in the Commission's regulations) who own homes within certain distances of aboveground facilities as well as anyone who submits comments on the project. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the planned project.

If the Commission issues the EA for an allotted public comment period, a *Notice of Availability* of the EA will be sent to the environmental mailing list and will provide instructions to access the electronic document on the FERC's website (*www.ferc.gov*). *If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please return the attached ''Mailing List Update Form'' (appendix 2).*

Becoming an Intervenor

Once Sempra files its application with the Commission, you may want to become an intervenor which is an official party to the Commission's proceeding. Only intervenors have the right to seek rehearing of the Commission's decision and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214). Motions to intervene are more fully described at *http://www.ferc.gov/resources/guides/how-to/intervene.asp*. Please note that the Commission will not accept requests

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called eLibrary or from the Commission's Public Reference Room, 888 First Street NE, Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The Advisory Council on Historic Preservation regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

for intervenor status at this time. You must wait until the Commission receives a formal application for the project, after which the Commission will issue a public notice that establishes an intervention deadline.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on General Search and enter the docket number in the Docket Number field, excluding the last three digits (*i.e.,* PF19–5). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: October 1, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–21793 Filed 10–4–19; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0676; FRL–10000–55–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Phosphoric Acid Manufacturing and Phosphate Fertilizers Production (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Phosphoric Acid Manufacturing and Phosphate Fertilizers Production (EPA ICR Number 1790.09, OMB Control Number 2060–0361), 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 January 31, 2020. Public comments were previously requested, via the **Federal Register**, on May 6, 2019, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before November 6, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0676, 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 National Emission Standards for Hazardous Air Pollutants (NESHAP) for Phosphoric Acid Manufacturing and Phosphate Fertilizers Production (40 CFR part 63, subparts AA and BB) were proposed on December 27, 1996, promulgated on June 10, 1999, and amended on: June 12, 2002; April 20, 2006, August 19, 2015, and September 28, 2017. Owners and operators of affected facilities are required to comply with reporting and record-keeping requirements for the General Provisions (40 CFR part 63, subpart A), as well as for the specific requirements at 40 CFR part 63 subparts AA and BB. This includes submitting initial notifications, performance tests and periodic reports and results, and maintaining 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 reports are used by EPA to determine compliance with these standards.

Form Numbers: None.

Respondents/affected entities: Phosphoric acid and phosphate fertilizer production facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63).

Estimated number of respondents: 13 (total).

Frequency of response: Quarterly and semiannually.

Total estimated burden: 2,200 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $441,000 (per year), which includes $186,000 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 a zero-growth rate for the industry.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–21809 Filed 10–4–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2018–0651; FRL–9999–71]

Product Cancellation Order for Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellations, voluntarily requested by the registrants and accepted by the Agency, of the products listed in Table 1 and Table 1A of Unit II., pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows a March 5, 2019 **Federal Register** Notice

of Receipt of Requests from the registrants listed in Table 2 of Unit II. to voluntarily cancel these product registrations. In the March 5, 2019 notice, EPA indicated that it would issue an order implementing the cancellations, unless the Agency received substantive comments within the 180-day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests. The Agency did not receive any comments on the notice. Further, the registrants did not withdraw their requests. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The effective date of the cancellation listed in Table 1 of Unit II. is December 31, 2018, and the registrant may continue to sell and distribute existing stocks of this product until December 31, 2019. The effective date of the cancellations listed in Table 1A of Unit II. is October 7, 2019, and the registrant may continue to sell and distribute existing stocks of these products until October 7, 2020.

FOR FURTHER INFORMATION CONTACT: Christopher Green, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 347–0367; email address: *green.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2018–0651, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What action is the Agency taking?

This notice announces the cancellation, as requested by registrants, of products registered under FIFRA section 3 (7 U.S.C. 136a). These registrations are listed in sequence by registration number in Table 1 and Table 1A of this unit.

TABLE 1—PRODUCT CANCELLATIONS

Registration No.	Company No.	Product name	Active ingredients
432–1477	432	Prostar 70 WDG Fungicide	Flutolanil.

The registrant of the request in Table 1, requests to cancel the registration on December 31, 2018.

TABLE 1A—PRODUCT CANCELLATIONS

Registration No.	Company No.	Product name	Active ingredients
87290–16	87290	Willowood Fomesafen 2 SL	Sodium salt of fomesafen.
ME050001	62719	Stinger	Clopyralid, monoethanolamine salt.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 and Table 1A of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1 and Table 1A of this unit.

TABLE 2—REGISTRANTS OF CANCELLED PRODUCTS

EPA Company No.	Company name and address
432	Bayer Environmental Science, A Division of Bayer CropScience, LP, 5000 CentreGreen Way, Suite 400, Cary, NC 27513.
62719	Dow AgroSciences, LLC, 9330 Zionsville Rd., 308/2E, Indianapolis, IN 46268–1054.
87290	Willowood, LLC, Wagner Regulatory Associates, Inc., P.O. Box 640, Hockessin, DE 19707–0640.

III. Summary of Public Comments Received and Agency Response to Comments

During the public comment period provided, EPA received no comments in response to the March 5, 2019 **Federal Register** notice announcing the Agency's receipt of the requests for voluntary cancellations of the products listed in Table 1 and Table 1A of Unit II.

IV. Cancellation Order

Pursuant to FIFRA section 6(f) (7 U.S.C. 136d(f)), EPA hereby approves the requested cancellations of the registrations identified in Table 1 and Table 1A of Unit II.

Accordingly, the Agency hereby orders that the product registrations identified in Table 1 and Table 1A of Unit II. are canceled. The effective date of these cancellations is specified in the **DATES** section. Any distribution, sale, or use of existing stocks of the products identified in Table 1 and Table 1A of Unit II. in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI. will be a violation of FIFRA.

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

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register.** Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment in the **Federal Register** of March 5, 2019 (84 FR 7899) (FRL–9988–75). The comment period closed on September 3, 2019.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. The existing stocks provisions for the products subject to this order are as follows:

The registrant of 432–1477, listed in Table 1, requested the cancellation to be effective on December 31, 2018, therefore, the registrant may continue to sell and distribute existing stocks of these products until December 31, 2019, which is 1 year after the effective date of the cancellation. Thereafter, the registrant is prohibited from selling or distributing the product listed in Table 1, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o), or proper disposal.

For all other voluntary cancellations listed in Table 1A, the registrants may continue to sell and distribute existing stocks of products listed in Table 1A of Unit II. until 1 year after the publication of the Cancellation Order in the **Federal Register,** the date is specified in the **DATES** section. Thereafter, the registrants are prohibited from selling or distributing products listed in Table 1A, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o), or proper disposal.

Persons other than the registrants may sell, distribute, or use existing stocks of the products listed in Table 1 and Table 1A of Unit II. until existing stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

Authority: 7 U.S.C. 136 *et seq.*

Dated: September 16, 2019.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2019–21713 Filed 10–4–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10000–74–OA]

Announcement of the Board of Directors for the National Environmental Education Foundation

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of Appointment.

SUMMARY: The National Environmental Education and Training Foundation (doing business as The National Environmental Education Foundation or ''NEEF'') was created by Section 10 of Public Law 101–619, the National Environmental Education Act of 1990 (NEEA) as a private 501(c)(3) non-profit organization. It was established by Congress as a common ground upon which leaders from business and industry, all levels of government, public interest groups, and others can work cooperatively to raise a greater national awareness of environmental issues beyond traditional classrooms.

Per NEEA, the EPA Administrator appoints and reappoints eligible individuals to serve on NEEF's Board of Directors. The Administrator announces the following four-year appointments to NEEF's Board of Directors, effective 90 days after publication of this notice:

- Jeniffer Harper-Taylor—Siemens Foundation (Re-appointment)
- Jennifer Love—Royal Caribbean International
- Lori A. McFarling—Discovery Education
- Steve Sikra—Proctor & Gamble

Additional considerations: As an independent foundation, NEEF is different from the Agency's several federal advisory committees and scientific boards, which have their own appointment processes. Because NEEA gives complete discretion to the Administrator in appointing members to NEEF's Board of Directors, EPA is taking additional steps to ensure all prospective members are qualified to serve on the Board and represent diverse points of view. In early 2019, EPA's Office of the Administrator formed an internal review panel comprised of senior EPA career officials tasked with verifying the qualifications of all future members of the NEEF Board of Directors selected by the Administrator. All new Board appointees underwent review by the panel prior to publication of this notice. These appointees will join the current Board members. Information on the Board members is available on NEEF's public website: *https://www.neefusa.org/about-neef/board.*

In December 2018, NEEF signed a first-time Memorandum of Understanding with the (EPA) Acting Administrator Andrew R. Wheeler to establish increased coordination between EPA and NEEF on key EPA initiatives including but not limited to EPA's Recycling Initiative, Trash Free Waters Program, Winning on Reducing Food Waste initiative, and the Healthy Schools Initiative.

FOR FURTHER INFORMATION CONTACT: For information regarding this Notice of Appointment, please contact Lee Tanner, (202)–564–4988) Acting Supervisor for Office of Environmental Education, U.S. EPA 1200 Pennsylvania Avenue NW, Washington, DC 20460. General information concerning NEEF may be found here: *https://www.neefusa.org/.*

SUPPLEMENTARY INFORMATION: Section 10(a) of the National Environmental Education Act of 1990 (NEEA) establishes the National Environmental Education Foundation and its underlying terms. The statute in its

entirety is available on EPA's website and may be accessed here: *https://www.epa.gov/education/national-environmental-education-act#s10.*

Section 10 of the NEEA provides the following, in pertinent part:

(a) Establishment and Purposes—

(1) ESTABLISHMENT—(A) There is hereby established the National Environmental Education Foundation. The Foundation is established in order to extend the contribution of environmental education and training to meeting critical environmental protection needs, both in this country and internationally; to facilitate the cooperation, coordination, and contribution of public and private resources to create an environmentally advanced educational system; and to foster an open and effective partnership among Federal, State, and local government, business, industry, academic institutions, community based environmental groups, and international organizations.

(B) The Foundation is a charitable and nonprofit corporation whose income is exempt from tax, and donations to which are tax deductible to the same extent as those organizations listed pursuant to section 501(c) of the Internal Revenue Code of 1986. The Foundation is not an agency or establishment of the United States.

(2) PURPOSES—The purposes of the Foundation are—

(A) subject to the limitation contained in the final sentence of subsection (d) herein, to encourage, accept, leverage, and administer private gifts for the benefit of, or in connection with, the environmental education and training activities and services of the United States Environmental Protection Agency;

(B) to conduct such other environmental education activities as will further the development of an environmentally conscious and responsible public, a well-trained and environmentally literate workforce, and an environmentally advanced educational system; and

(C) to participate with foreign entities and individuals in the conduct and coordination of activities that will further opportunities for environmental education and training to address environmental issues and problems involving the United States and Canada or Mexico.

(3) PROGRAMS—The Foundation will develop, support, and/or operate programs and projects to educate and train educational and environmental professionals, and to assist them in the development of environmental education and training programs and studies.

(b) Board of Directors-

(1) ESTABLISHMENT AND MEMBERSHIP—(A) The Foundation shall have a governing Board of Directors (hereafter referred to in this section as 'the Board'), which shall consist of 13 directors, each of whom shall be knowledgeable or experienced in the environment, education and/or training. The Board shall oversee the activities of the Foundation and shall assure that the activities of the Foundation are consistent with the environmental and education goals and policies of the EPA and with the intents and purposes of this Act. The membership of the Board, to the extent practicable, shall represent diverse points of view relating to environmental education and training.

(2) APPOINTMENT AND TERMS—(A) Members of the Board shall be appointed by the EPA Administrator.

(B) Within 90 days of the date of the enactment of this Act, and as appropriate thereafter, the Administrator shall publish in the **Federal Register** an announcement of appointments of Directors of the Board. Such appointments become final and effective 90 days after publication of the notice of appointment.

(C) The directors shall be appointed for terms of 4 years. The Administrator shall appoint an individual to serve as a director in the event of a vacancy on the Board within 60 days of said vacancy in the manner in which the original appointment was made. No individual may serve more than 2 consecutive terms as a director.

Dated: September 17, 2019.

Elizabeth (Tate) Bennett, Associate Administrator,

Office of Public Engagement and Environmental Education.

[FR Doc. 2019–21832 Filed 10–4–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OLEM–2019–0558, FRL–10000–63–OLEM]

Agency Information Collection Activities; Proposed Collection; Comment Request; RCRA Subtitle C Reporting Instructions and Forms

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit the information collection request (ICR), ''RCRA Subtitle C Reporting Instructions and Forms'' (EPA ICR No. 0976.19, OMB Control No. 2050–0024) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through May 30, 2020. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before December 6, 2019.

ADDRESSES: Submit your comments, referencing by Docket ID No. EPA–HQ–OLEM–2019–0558, online using *www.regulations.gov* (our preferred method), by email to *rcra-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

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: Peggy Vyas, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 703–308–5477; fax number: 703–308–8433; email address: *vyas.peggy@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.*

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, the EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Section 3002 of RCRA requires hazardous waste generators to report, at least every 2 years, the quantity and nature of hazardous waste generated and managed during that reporting cycle. Section 3004 requires treatment, storage, and disposal facilities (TSDFs) to report any waste received. This is mandatory reporting. The information is collected via the Hazardous Waste Report (EPA Form 8700–13 A/B). This form is also known as the ''Biennial Report'' form.

Section 3010 of RCRA requires any person who generates or transports regulated waste or who owns or operates a facility for the treatment, storage, or disposal of regulated waste to notify the EPA of their activities, including the location and general description of activities and the regulated wastes handled. The entity is then issued an EPA Identification number. Entities use the Notification Form (EPA Form 8700–12) to notify EPA of their hazardous waste activities. This form is also known as the ''Notification'' form.

Section 3005 of RCRA requires TSDFs to obtain a permit. To obtain the permit, the TSDF must submit an application describing the facility's operation. The RCRA Hazardous Waste Part A Permit Application form (EPA Form 8700–23) defines the processes to be used for treatment, storage, and disposal of hazardous wastes; the design capacity of such processes; and the specific hazardous wastes to be handled at the facility. This form is also known as the ''Part A'' form.

Form Numbers: EPA form numbers 8700–12, 8700–13A/B, and 8700–23.

Respondents/affected entities: Business or other for-profit as well as State, Local, or Tribal governments.

Respondent's obligation to respond: Mandatory (RCRA Sections 3002, 3304, 3005, 3010).

Estimated number of respondents: 64,005.

Frequency of response: Biennially and on occasion.

Total estimated burden: 647,425 hours per year. Burden is defined at 5 CFR 1320.03(b).

T*otal estimated cost:* $28,488,775 (per year), includes $28,164,958 and $323,817 annualized capital or operation & maintenance costs.

Changes in Estimates: The burden hours are likely to stay substantially the same.

Dated: September 20, 2019.

Barnes Johnson,

Director, Office of Resource Conservation and Recovery.

[FR Doc. 2019–21831 Filed 10–4–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OA–2015–0553; FRL–10000–83–OA]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Updated CEQ–EPA Presidential Innovation Award for Environmental Educators and the President's Environmental Youth Awards Application (Revision)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), ''Updated CEQ–EPA Presidential Innovation Award for Environmental Educators and the President's Environmental Youth Awards Application (Revision)'' (EPA ICR No. 2524.03, OMB Control No. 2090–0031) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed revision of the ICR, which is currently approved through April 30, 2022. An Agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before December 6, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OA–2015–0553, online using *www.regulations.gov* (our preferred method), by email to *oei.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

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: Javier Araujo, Office of the Administrator, Office of Environmental Education, MC–1704A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–2642; fax number: 202–564–2753; email address: *araujo.javier@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.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of

the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: The purpose of this information collection request is to collect information from applicants to select recipients for the Presidential Innovation Award for Environmental Educators (PIAEE) program and the President's Environmental Youth Awards (PEYA) program. The U.S. Environmental Protection Agency (EPA or the Agency), in conjunction with the White House Council on Environmental Quality (CEQ), established the PIAEE program to meet the requirements of Section 8(e) of the National Environmental Education Act (20 U.S.C. 5507(e)). The Agency established the PEYA program to meet the requirements of Section 8(d) of the National Environmental Education Act (20 U.S.C. 5507(d)).

Form Numbers: None.

Respondents/affected entities: K–12 teachers who teach on a full-time basis in a public school that is operated by a local education agency, including schools funded by the Bureau of Indian Affairs. For this program, a local education agency is one as defined by section 198 of the Elementary and Secondary Education Act of 1965 (now codified at 20 U.S.C. 7801(26)).

Respondent's obligation to respond: Required to obtain information from the applicants for PIAEE and PEYA program and assess certain aspects of programs as established under Section 8(e) of the National Environmental Education Act (20 U.S.C. 5507(e)) and Section 8(d) of the National Environmental Education Act (20 U.S.C. 5507(d)) respectively.

Estimated number of respondents: 75 (total) for the PIAEE program and 200 (total) for the PEYAEE program.

Frequency of response: Annually.

Total estimated burden: 1,870 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: For the PIAEE program, $32,960 (per year) for 75 applicants. For the PEYA program, $49,220 (per year) for 200 applicants. There are no capital or operation & maintenance costs.

Changes in the Estimates: There has been a change in the number of respondents due to the addition of activities related to PEYA application. The individual cost per respondent has risen, due to increases in labor rate estimates.

Dated: August 28, 2019.

Elizabeth (Tate) Bennett,

Associate Administrator, Office of Public Engagement and Environmental Education.

[FR Doc. 2019–21833 Filed 10–4–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10000–95–Region 3]

Delegation of Authority to the Commonwealth of Virginia To Implement and Enforce Additional or Revised National Emission Standards for Hazardous Air Pollutants Standards and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation of authority.

SUMMARY: On September 12, 2019, the Environmental Protection Agency (EPA) sent the Commonwealth of Virginia (Virginia) a letter acknowledging that Virginia's delegation of authority to implement and enforce the National Emissions Standards for Hazardous Air Pollutants (NESHAPs) and New Source Performance Standards (NSPS) had been updated, as provided for under previously approved delegation mechanisms. To inform regulated facilities and the public, EPA is making available a copy of EPA's letter to Virginia through this notice.

DATES: On September 12, 2019, EPA sent Virginia a letter acknowledging that Virginia's delegation of authority to implement and enforce Federal NESHAPs had been updated.

ADDRESSES: Copies of documents pertaining to this action are available for public inspection during normal business hours at the Air and Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029. Copies of Virginia's submittal are also available at the Virginia Department of Environmental Quality, 1111 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Riley Burger, (215) 814–2217, or by email at *burger.riley@epa.gov*.

SUPPLEMENTARY INFORMATION: On February 21, 2019, Virginia notified EPA that Virginia had updated its incorporation by reference of Federal NESHAPs to include many such standards, as they were published in final form in the Code of Federal Regulations (CFR) dated July 1, 2018. On September 12, 2019, EPA sent Virginia a letter acknowledging that Virginia now has the authority to implement and enforce the NESHAPs as specified by Virginia in its notice to EPA, as provided for under previously approved automatic delegation mechanisms. All notifications, applications, reports, and other correspondence required pursuant to the delegated NESHAPs must be submitted to both EPA, Region III and to the Virginia Department of Environmental Quality, unless the delegated standard specifically provides that such submittals may be sent to EPA or a delegated State. In such cases, the submittals should be sent only to the Virginia Department of Environmental Quality. A copy of EPA's letter to Virginia follows:

''Michael G. Dowd, Director Air Division
Virginia Department of Environmental Quality
P.O. Box 1105
Richmond, Virginia 23218

Dear Mr. Dowd:

The United States Environmental Protection Agency (EPA) has previously delegated to the Commonwealth of Virginia (Virginia) the authority to implement and enforce various federal New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), and National Emission Standards for Hazardous Air Pollutants for Source Categories (MACT standards) which are found at 40 CFR parts 60, 61 and 63, respectively. In those actions, EPA also delegated to Virginia the authority to implement and enforce any future federal NSPS, NESHAP or MACT Standards on the condition that Virginia legally adopt the future standards, make only allowed wording changes, and provide specified notice to EPA.

In a letter dated February 21, 2019, Virginia submitted to EPA revised versions of Virginia's regulations which incorporate by reference specified federal NSPS, NESHAP and MACT standards, as those federal standards had been published in final form in the Code of Federal Regulations dated July 1, 2018. Virginia committed to enforcing the federal standards in conformance with the terms of EPA's previous delegations of authority and made only allowed wording changes.

Virginia stated that it had submitted the revisions ''to retain its authority to enforce the NSPSs and NESHAPs under the delegation of authority granted by EPA on August 27, 1981 (46 FR 43300) and to enforce the MACT standards under the delegation of authority granted by EPA on January 26, 1999 (64 FR 3938) and January 8, 2002 (67 FR 825).''

Virginia provided copies of its revised regulations which specify the NSPS, NESHAP and MACT Standards which it had adopted by reference. Virginia's revised regulations are entitled 9 VAC 5–50 ''New and Modified Stationary Sources,'' and 9 VAC 5–60 ''Hazardous Air Pollutant Sources.'' These revised regulations have an effective date of February 20, 2019.

Based on Virginia's submittal, EPA acknowledges that EPA's delegations to Virginia of the authority implement and enforce EPA's NSPS, NESHAP, and MACT Standards have been updated, as provided for under the terms of EPA's previous

delegation of authority actions, to allow the Virginia to implement and enforce the federal NSPS, NESHAP and MACT standards which Virginia has adopted by reference as specified in Virginia's revised regulations 9 VAC 5–50 and 9 VAC 5–60, both effective on February 20, 2019.

Please note that on December 19, 2008, in *Sierra Club* v. *EPA,*[1] the United States Court of Appeals for the District of Columbia Circuit vacated certain provisions of the General Provisions of 40 CFR part 63 relating to exemptions for startup, shutdown, and malfunction (SSM). On October 16, 2009, the Court issued a mandate vacating these SSM exemption provisions, which are found at 40 CFR 63.6(f)(1) and (h)(1).

Accordingly, EPA no longer allows sources the SSM exemption as provided for in the vacated provisions at 40 CFR 63.6(f)(1) and (h)(1), even though EPA has not yet formally removed these SSM exemption provisions from the General Provisions of 40 CFR part 63. Because Virginia incorporated 40 CFR part 63 by reference, Virginia should also no longer allow sources to use the former SSM exemption from the General Provisions of 40 CFR part 63 due to the Court's ruling in *Sierra Club vs. EPA.*

EPA appreciates Virginia's continuing NSPS, NESHAP and MACT standards enforcement efforts, and also Virginia's decision to take automatic delegation of additional or updated NSPS, NESHAP and MACT standards by adopting them by reference.

Sincerely,

Cristina Fernandez, Director,
Air and Radiation Division.''

This notice acknowledges the update of Virginia's delegation of authority to implement and enforce NESHAP, NSPS, and MACT.

Dated: September 25, 2019.

Cristina Fernandez,

Director, Air and Radiation Division, Region III.

[FR Doc. 2019–21830 Filed 10–4–19; 8:45 am]

BILLING CODE 6560–50–P

[1] *Sierra Club* v. *EPA,* 551 F.3rd 1019 (D.C. Cir. 2008).

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice

TIME AND DATE: 10:00 a.m., Thursday, November 21, 2019.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW, Washington, DC 20004 (enter from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument in the matter *Secretary of Labor* v. *Peabody Midwest Mining, LLC,* Docket No. LAKE 2017–450. (Issues include whether the Judge erred in concluding that a violation of the mine's emergency response plan was ''significant and substantial.'')

Any person attending this oral argument who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

PHONE NUMBER FOR LISTENING TO MEETING: 1–(866) 867–4769, Passcode: 678–100.

Authority: 5 U.S.C. 552b.

Dated: October 3, 2019.

Sarah L. Stewart,

Deputy General Counsel.

[FR Doc. 2019–22005 Filed 10–3–19; 4:15 pm]

BILLING CODE 6735–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice

TIME AND DATE: 10:00 a.m., Thursday, November 21, 2019.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW, Washington, DC 20004 (enter from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument in the matter *Secretary of Labor* v. *Peabody Midwest Mining, LLC,* Docket No. LAKE 2017–450. (Issues include whether the Judge erred in concluding that a violation of the mine's emergency response plan was ''significant and substantial.'')

Any person attending this oral argument who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

PHONE NUMBER FOR LISTENING TO MEETING: 1–(866) 867–4769, Passcode: 678–100.

Authority: 5 U.S.C. 552b.

Dated: October 3, 2019.

Sarah L. Stewart,

Deputy General Counsel.

[FR Doc. 2019–21992 Filed 10–3–19; 4:15 pm]

BILLING CODE 6735–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice

TIME AND DATE: 10:00 a.m., Friday, November 22, 2019.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW, Washington, DC 20004 (enter from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Peabody Midwest Mining, LLC,* Docket No. LAKE 2017–450. (Issues include whether the Judge erred in concluding that a violation of the mine's emergency response plan was ''significant and substantial.'')

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

PHONE NUMBER FOR LISTENING TO MEETING: 1–(866) 867–4769, Passcode: 678–100.

Authority: 5 U.S.C. 552b.

Dated: October 3, 2019.

Sarah L. Stewart,

Deputy General Counsel.

[FR Doc. 2019–21995 Filed 10–3–19; 4:15 pm]

BILLING CODE 6735–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies

owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th and Constitution Avenue NW, Washington, DC 20551–0001, not later than November 7, 2019.

A. Federal Reserve Bank of Atlanta (Kathryn Haney, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *IFB Bancorp, Inc., Miami, Florida;* to become a bank holding company by acquiring International Finance Bank, also of Miami, Florida.

B. Federal Reserve Bank of Philadelphia (William Spaniel, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521. Comments can also be sent electronically to *Comments.applications@phil.frb.org:*

1. *OceanFirst Financial Corp., Toms River, New Jersey;* to acquire Two River Bancorp and thereby indirectly acquire Two River Community Bank, both of Tinton Falls, New Jersey.

2. *OceanFirst Financial Corp., Toms River, New Jersey;* to acquire Country Bank Holding Company and thereby indirectly acquire Country Bank, both of New York, New York.

Board of Governors of the Federal Reserve System, October 2, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–21787 Filed 10–4–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–19–0666]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled National Healthcare Safety Network (NHSN) to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on June 5, 2019 to obtain comments from the public and affected agencies. CDC received two comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

National Healthcare Safety Network (NHSN)—Revision—National Center for Emerging and Zoonotic Infection Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Division of Healthcare Quality Promotion (DHQP), National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC) collects data from healthcare facilities in the National Healthcare Safety Network (NHSN) under OMB Control Number 0920–0666. During the early stages of its development, NHSN began as a voluntary surveillance system in 2005 managed by DHQP. NHSN provides facilities, states, regions, and the nation with data necessary to identify problem areas, measure the progress of prevention efforts, and ultimately eliminate healthcare-associated infections (HAIs) nationwide. NHSN allows healthcare facilities to track blood safety errors and various healthcare-associated infection prevention practice methods such as healthcare personnel influenza vaccine status and corresponding infection control adherence rates.

NHSN currently has six components: Patient Safety (PS), Healthcare Personnel Safety (HPS), Biovigilance (BV), Long-Term Care Facility (LTCF), Outpatient Procedure (OPC), and the Dialysis Component. NHSN's new Neonatal Component is expected to launch during the summer of 2020. This component will focus on premature neonates and the healthcare-associated events that occur as a result of their prematurity. This component will be released with one module, which includes Late Onset-Sepsis and Meningitis. Late-onset sepsis (LOS) and Meningitis are common complications of extreme prematurity. Studies have indicated that 36% of extremely low gestational age (22–28 weeks) infants develop LOS and that 21% of very low birth weight infants surviving beyond three days of life will develop LOS. Meningitis occurs in 23% of bacteremic infants, but 38% of infants with a pathogen isolated from the cerebrospinal fluid may not have an organism isolated from blood. These infections are usually serious, causing a prolongation of hospital stay, increased cost, and risk of morbidity and mortality.

Some cases of LOS can be prevented through proper central line insertion and maintenance practices. These are addressed in the CDC's Healthcare Infection Control Practices Advisory Committee (CDC/HICPAC) *Guidelines for the Prevention of Intravascular Catheter-Related Infections, 2011.* However, almost one-third of LOS events in a quality-improvement study were not related to central-lines.

Prevention strategies for the non-central line-related infection events have yet to be fully defined, but include adherence to hand-hygiene, parent and visitor education, and optimum nursery design features. Other areas that likely influence the development of LOS include early enteral nutritional support and skin care practices. The data for this module will be electronically submitted, and manual data entry will not be available. This will allow more hospital personnel to be available to care for patients and will reduce annual burden across healthcare facilities. Additionally, LOS data will be utilized for prevention initiatives.

Data reported under the Patient Safety Component are used to determine the magnitude of the healthcare-associated adverse events and trends in the rates of the events, in the distribution of pathogens, and in the adherence to prevention practices. Data will help detect changes in the epidemiology of adverse events resulting from new medical therapies and changing patient risks. Additionally, reported data is being used to describe the epidemiology of antimicrobial use and resistance and to better understand the relationship of antimicrobial therapy to this rising problem. Under the Healthcare Personnel Safety Component, protocols and data on events—both positive and adverse—are used to determine (1) the magnitude of adverse events in healthcare personnel, and (2) compliance with immunization and sharps injuries safety guidelines. Under the Biovigilance Component, data on adverse reactions and incidents associated with blood transfusions are reported and analyzed to provide national estimates of adverse reactions and incidents. Under the Long-Term Care Facility Component, data is captured from skilled nursing facilities. Reporting methods under the LTCF component have been created by using forms from the PS Component as a model with modifications to specifically address the specific characteristics of LTCF residents and the unique data needs of these facilities reporting into NHSN. The Dialysis Component offers a simplified user interface for dialysis users to streamline their data entry and analyses processes as well as provide options for expanding in the future to include dialysis surveillance in settings other than outpatient facilities. The Outpatient Procedure Component (OPC) gathers data on the impact of infections and outcomes related to operative procedures performed in Ambulatory Surgery Centers (ASCs). The OPC is used to monitor two event types: Same Day Outcome Measures and Surgical Site Infections (SSIs).

NHSN has increasingly served as the operating system for HAI reporting compliance through legislation established by the states. As of March 2019, 36 states, the District of Columbia and the City of Philadelphia, Pennsylvania have opted to use NHSN as their primary system for mandated reporting. Reporting compliance is completed by healthcare facilities in their respective jurisdictions, with emphasis on those states and municipalities acquiring varying consequences for failure to use NHSN. Additionally, healthcare facilities in five U.S. territories (Puerto Rico, American Samoa, the U.S. Virgin Islands, Guam, and the Northern Mariana Islands) are voluntarily reporting to NHSN. Additional territories are projected to follow with similar use of NHSN for reporting purposes.

NHSN's data is used to aid in the tracking of HAIs and guide infection prevention activities/practices that protect patients. The Centers for Medicare and Medicaid Services (CMS) and other payers use these data to determine incentives for performance at healthcare facilities across the US and surrounding territories, and members of the public may use some protected data to inform their selection among available providers. Each of these parties is dependent on the completeness and accuracy of the data. CDC and CMS work closely and are fully committed to ensuring complete and accurate reporting, which are critical for protecting patients and guiding national, state, and local prevention priorities.

CMS collects some HAI data and healthcare personnel influenza vaccination summary data, which is done on a voluntary basis as part of its Fee-for-Service Medicare quality reporting programs, while others may report data required by a federal mandate. Facilities that fail to report quality measure data are subject to partial payment reduction in the applicable Medicare Fee-for-Service payment system. CMS links their quality reporting to payment for Medicare-eligible acute care hospitals, inpatient rehabilitation facilities, long-term acute care facilities, oncology hospitals, inpatient psychiatric facilities, dialysis facilities, and ambulatory surgery centers. Facilities report HAI data and healthcare personnel influenza vaccination summary data to CMS via NHSN as part of CMS's quality reporting programs to receive full payment. Still, many healthcare facilities, even in states without HAI reporting legislation, submit limited HAI data to NHSN voluntarily.

NHSN's data collection updates continue to support the incentive programs managed by CMS. For example, survey questions support requirements for CMS' quality reporting programs. Additionally, CDC has collaborated with CMS on a voluntary National Nursing Home Quality Collaborative, which focuses on recruiting nursing homes to report HAI data to NHSN and to retain their continued participation. This project has resulted in a significant increase in long-term care facilities reporting to NHSN. The collection of information is authorized by the Public Health Service Act (42 U.S.C. 242b, 242k, and 242m (d)).

The proposed changes in this new ICR include revisions made to 40 NHSN data collection tools for a total of 76 data collection tools included in this ICR. The reporting burden decreased by 2,363,508 hours for a total estimated burden of 3,033,930 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondent type	Form No. & name	Number of respondents	Number of responses per respondent	Average burden per response (hours)
Healthcare Practitioner	57.100 NHSN Registration Form	2,000	1	5/60
	57.101 Facility Contact Information	2,000	1	10/60
	57.103 Patient Safety Component—Annual Hospital Survey.	5,175	1	75/60
	57.105 Group Contact Information	1,000	1	5/60
	57.106 Patient Safety Monthly Reporting Plan	6,000	12	15/60
	57.108 Primary Bloodstream Infection (BSI)	5,775	5	38/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Respondent type	Form No. & name	Number of respondents	Number of responses per respondent	Average burden per response (hours)
	57.111 Pneumonia (PNEU)	1,800	30	30/60
	57.112 Ventilator-Associated Event	5,500	5	28/60
	57.113 Pediatric Ventilator-Associated Event (PedVAE)	334	120	30/60
	57.114 Urinary Tract Infection (UTI)	5,500	5	20/60
	57.115 Custom Event	600	91	35/60
	57.116 Denominators for Neonatal Intensive Care Unit (NICU).	220	12	249/60
	57.117 Denominators for Specialty Care Area (SCA)/Oncology (ONC).	165	12	302/60
	57.118 Denominators for Intensive Care Unit (ICU)/Other locations (not NICU or SCA).	5,500	60	302/60
	57.120 Surgical Site Infection (SSI)	4,500	11	35/60
	57.121 Denominator for Procedure	4,500	680	10/60
	57.122 HAI Progress Report State Health Department Survey.	55	1	45/60
	57.123 Antimicrobial Use and Resistance (AUR)-Microbiology Data Electronic Upload Specification Tables.	1,500	12	5/60
	57.124 Antimicrobial Use and Resistance (AUR)-Pharmacy Data Electronic Upload Specification Tables.	2,000	12	5/60
	57.125 Central Line Insertion Practices Adherence Monitoring.	500	213	25/60
	57.126 MDRO or CDI Infection Form	720	12	30/60
	57.127 MDRO and CDI Prevention Process and Outcome Measures Monthly Monitoring.	5,500	29	15/60
	57.128 Laboratory-identified MDRO or CDI Event	4,800	87	20/60
	57.129 Adult Sepsis	50	250	25/60
	57.137 Long-Term Care Facility Component—Annual Facility Survey.	2,220	1	120/60
	57.138 Laboratory-identified MDRO or CDI Event for LTCF	2,150	24	15/60
	57.139 MDRO and CDI Prevention Process Measures Monthly Monitoring for LTCF.	2,200	12	20/60
	57.140 Urinary Tract Infection (UTI) for LTCF	400	12	30/60
	57.141 Monthly Reporting Plan for LTCF	2,220	12	5/60
	57.142 Denominators for LTCF Locations	2,220	12	250/60
	57.143 Prevention Process Measures Monthly Monitoring for LTCF.	375	12	5/60
	57.150 LTAC Annual Survey	500	1	70/60
	57.151 Rehab Annual Survey	1,200	1	70/60
	57.200 Healthcare Personnel Safety Component Annual Facility Survey.	50	1	480/60
	57.203 Healthcare Personnel Safety Monthly Reporting Plan.		1	5/60
	57.204 Healthcare Worker Demographic Data	50	200	20/60
	57.205 Exposure to Blood/Body Fluids	50	50	60/60
	57.206 Healthcare Worker Prophylaxis/Treatment	50	30	15/60
	57.207 Follow-Up Laboratory Testing	50	50	15/60
	57.210 Healthcare Worker Prophylaxis/Treatment-Influenza.	50	50	10/60
	57.300 Hemovigilance Module Annual Survey	500	1	85/60
	57.301 Hemovigilance Module Monthly Reporting Plan	500	12	1/60
	57.303 Hemovigilance Module Monthly Reporting Denominators.	500	12	70/60
	57.305 Hemovigilance Incident	500	10	10/60
	57.306 Hemovigilance Module Annual Survey—Non-acute care facility.	500	1	35/60
	57.307 Hemovigilance Adverse Reaction—Acute Hemolytic Transfusion Reaction.	500	4	20/60
	57.308 Hemovigilance Adverse Reaction—Allergic Transfusion Reaction.	500	4	20/60
	57.30 Hemovigilance Adverse Reaction—Delayed Hemolytic Transfusion Reaction.	500	1	20/60
	57.310 Hemovigilance Adverse Reaction—Delayed Serologic Transfusion Reaction.	500	2	20/60
	57.311 Hemovigilance Adverse Reaction—Febrile Non-hemolytic Transfusion Reaction.	500	4	20/60
	57.312 Hemovigilance Adverse Reaction—Hypotensive Transfusion Reaction.	500	1	20/60
	57.313 Hemovigilance Adverse Reaction—Infection	500	1	20/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Respondent type	Form No. & name	Number of respondents	Number of responses per respondent	Average burden per response (hours)
	57.314 Hemovigilance Adverse Reaction—Post Transfusion Purpura.	500	1	20/60
	57.315 Hemovigilance Adverse Reaction—Transfusion Associated Dyspnea.	500	1	20/60
	57.316 Hemovigilance Adverse Reaction—Transfusion Associated Graft vs. Host Disease.	500	1	20/60
	57.317 Hemovigilance Adverse Reaction—Transfusion Related Acute Lung Injury.	500	1	20/60
	57.318 Hemovigilance Adverse Reaction—Transfusion Associated Circulatory Overload.	500	2	20/60
	57.319 Hemovigilance Adverse Reaction—Unknown Transfusion Reaction.	500	1	20/60
	57.320 Hemovigilance Adverse Reaction—Other Transfusion Reaction.	500	1	20/60
	57.400 Outpatient Procedure Component—Annual Facility Survey.	700	1	10/60
	57.401 Outpatient Procedure Component—Monthly Reporting Plan.	700	12	15/60
	57.402 Outpatient Procedure Component Same Day Outcome Measures.	200	1	40/60
	57.403 Outpatient Procedure Component—Monthly Denominators for Same Day Outcome Measures.	200	400	40/60
	57.404 Outpatient Procedure Component—SSI Denominator.	700	100	40/60
	57.405 Outpatient Procedure Component—Surgical Site (SSI) Event.	700	5	40/60
	57.500 Outpatient Dialysis Center Practices Survey	7,100	1	127/60
	57.501 Dialysis Monthly Reporting Plan	7,100	12	5/60
	57.502 Dialysis Event	7,100	30	25/60
	57.503 Denominator for Outpatient Dialysis	7,100	12	10/60
	57.504 Prevention Process Measures Monthly Monitoring for Dialysis.	1,760	12	75/60
	57.505 Dialysis Patient Influenza Vaccination	860	60	10/60
	57.506 Dialysis Patient Influenza Vaccination Denominator	860	1	5/60
	57.507 Home Dialysis Center Practices Survey	430	1	30/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2019–21753 Filed 10–4–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–4186–N]

Medicare Program; Medicare Appeals; Adjustment to the Amount in Controversy Threshold Amounts for Calendar Year 2020

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

ACTION: Notice.

SUMMARY: This notice announces the annual adjustment in the amount in controversy (AIC) threshold amounts for Administrative Law Judge (ALJ) hearings and judicial review under the Medicare appeals process. The adjustment to the AIC threshold amounts will be effective for requests for ALJ hearings and judicial review filed on or after January 1, 2020. The calendar year 2020 AIC threshold amounts are $170 for ALJ hearings and $1,670 for judicial review.

DATES: This annual adjustment takes effect on January 1, 2020.

FOR FURTHER INFORMATION CONTACT: Liz Hosna (*Katherine.Hosna@cms.hhs.gov*), (410) 786–4993.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1869(b)(1)(E) of the Social Security Act (the Act), as amended by section 521 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA), established the amount in controversy (AIC) threshold amounts for Administrative Law Judge (ALJ) hearings and judicial review at $100 and $1,000, respectively, for Medicare Part A and Part B appeals. Section 940 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), amended section 1869(b)(1)(E) of the Act to require the AIC threshold amounts for ALJ hearings and judicial review to be adjusted annually. Beginning in January 2005, the AIC threshold amounts are to be adjusted by the percentage increase in the medical care component of the consumer price index (CPI) for all urban consumers (U.S. city average) for July 2003 to July of the year preceding the year involved and rounded to the nearest multiple of $10. Section 940(b)(2) of the MMA provided conforming amendments to apply the AIC adjustment requirement to Medicare Part C/Medicare Advantage (MA) appeals and certain health maintenance organization and competitive health plan appeals. Health care prepayment plans are also subject to MA appeals rules, including the AIC adjustment requirement. Section 101 of the MMA provides for the application of the AIC adjustment requirement to Medicare Part D appeals.

A. Medicare Part A and Part B Appeals

The statutory formula for the annual adjustment to the AIC threshold amounts for ALJ hearings and judicial review of Medicare Part A and Part B appeals, set forth at section 1869(b)(1)(E) of the Act, is included in the applicable implementing regulations, 42 CFR 405.1006(b) and (c). The regulations require the Secretary of Health and Human Services (the Secretary) to publish changes to the AIC threshold amounts in the **Federal Register** (§ 405.1006(b)(2)). In order to be entitled to a hearing before an ALJ, a party to a proceeding must meet the AIC requirements at § 405.1006(b). Similarly, a party must meet the AIC requirements at § 405.1006(c) at the time judicial review is requested for the court to have jurisdiction over the appeal (§ 405.1136(a)).

B. Medicare Part C/MA Appeals

Section 940(b)(2) of the MMA applies the AIC adjustment requirement to Medicare Part C appeals by amending section 1852(g)(5) of the Act. The implementing regulations for Medicare Part C appeals are found at 42 CFR 422, subpart M. Specifically, sections 422.600 and 422.612 discuss the AIC threshold amounts for ALJ hearings and judicial review. Section 422.600 grants any party to the reconsideration (except the MA organization) who is dissatisfied with the reconsideration determination a right to an ALJ hearing as long as the amount remaining in controversy after reconsideration meets the threshold requirement established annually by the Secretary. Section 422.612 states, in part, that any party, including the MA organization, may request judicial review if the AIC meets the threshold requirement established annually by the Secretary.

C. Health Maintenance Organizations, Competitive Medical Plans, and Health Care Prepayment Plans

Section 1876(c)(5)(B) of the Act states that the annual adjustment to the AIC dollar amounts set forth in section 1869(b)(1)(E)(iii) of the Act applies to certain beneficiary appeals within the context of health maintenance organizations and competitive medical plans. The applicable implementing regulations for Medicare Part C appeals are set forth in 42 CFR 422, subpart M and apply to these appeals in accordance with 42 CFR 417.600(b). The Medicare Part C appeals rules also apply to health care prepayment plan appeals in accordance with 42 CFR 417.840.

D. Medicare Part D (Prescription Drug Plan) Appeals

The annually adjusted AIC threshold amounts for ALJ hearings and judicial review that apply to Medicare Parts A, B, and C appeals also apply to Medicare Part D appeals. Section 101 of the MMA added section 1860D–4(h)(1) of the Act regarding Part D appeals. This statutory provision requires a prescription drug plan sponsor to meet the requirements set forth in sections 1852(g)(4) and (g)(5) of the Act, in a similar manner as MA organizations. As noted previously, the annually adjusted AIC threshold requirement was added to section 1852(g)(5) of the Act by section 940(b)(2)(A) of the MMA. The implementing regulations for Medicare Part D appeals can be found at 42 CFR 423, subparts M and U. More specifically, § 423.2006 of the Part D appeals rules discusses the AIC threshold amounts for ALJ hearings and judicial review. Sections 423.2002 and 423.2006 grant a Part D enrollee, who is dissatisfied with the independent review entity (IRE) reconsideration determination, a right to an ALJ hearing if, in part, the amount remaining in controversy after the IRE reconsideration meets the threshold amount established annually by the Secretary. Sections 423.2006 and 423.2136 allow a Part D enrollee to request judicial review of an ALJ or Medicare Appeals Council decision if, in part, the AIC meets the threshold amount established annually by the Secretary.

II. Provisions of the Notice—Annual AIC Adjustments

A. AIC Adjustment Formula and AIC Adjustments

As previously noted, section 940 of the MMA requires that the AIC threshold amounts be adjusted annually, beginning in January 2005, by the percentage increase in the medical care component of the CPI for all urban consumers (U.S. city average) for July 2003 to July of the year preceding the year involved and rounded to the nearest multiple of $10.

B. Calendar Year 2020

The AIC threshold amount for ALJ hearings will rise to $170 and the AIC threshold amount for judicial review will rise to $1,670 for CY 2020. These amounts are based on the 67.234 percent increase in the medical care component of the CPI, which was at 297.600 in July 2003 and rose to 497.687 in July 2019. The AIC threshold amount for ALJ hearings changes to $167.23 based on the 67.234 percent increase over the initial threshold amount of $100 established in 2003. In accordance with section 1869(b)(1)(E)(iii) of the Act, the adjusted threshold amounts are rounded to the nearest multiple of $10. Therefore, the CY 2020 AIC threshold amount for ALJ hearings is $170.00. The AIC threshold amount for judicial review changes to $1,672.34 based on the 67.234 percent increase over the initial threshold amount of $1,000. This amount was rounded to the nearest multiple of $10, resulting in the CY 2020 AIC threshold amount of $1,670.00 for judicial review.

C. Summary Table of Adjustments in the AIC Threshold Amounts

In the following table we list the CYs 2016 through 2020 threshold amounts.

	CY 2016	CY 2017	CY 2018	CY 2019	CY 2020
ALJ Hearing	$150	$160	$160	$160	$170
Judicial Review	1,500	1,560	1,600	1,630	1,670

III. Collection of Information Requirements

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

Dated: September 24, 2019.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2019–21751 Filed 10–4–19; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Trafficking Victim Assistance Program Data Collection (OMB #0970–0467)

AGENCY: Office on Trafficking in Persons; Administration for Children and Families; HHS.

ACTION: Request for public comment.

SUMMARY: The Office on Trafficking in Persons (OTIP), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is requesting to reinstate a previously approved information collection with revisions to information collected on clients enrolled in the Trafficking Victim Assistance Grant Program.

DATES: *Comments due within 30 days of publication.* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV*, Attn: Desk Officer for the Administration for Children and Families.

Copies of the proposed collection may be obtained by emailing *infocollection@acf.hhs.gov.* Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: OPRE Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: OTIP awards cooperative agreements for grantees to provide case management services to foreign national victims of a severe form of trafficking in persons who have received or are actively pursuing HHS Certification or Eligibility and their qualified family members (*e.g.,* minor dependent children of victims or family members with derivative T visas), as authorized in the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(b)(1)(B)). Grantees provide services to qualified persons through a national network of subrecipient organizations.

OTIP proposes to collect information to measure grant project performance, provide technical assistance to grantees, assess program outcomes, improve program evaluation, respond to congressional inquiries and mandated reports, and inform policy and program development that is responsive to the needs of victims.

The information collection captures information on participant demographics (*e.g.,* age, sex, and country of origin), types of trafficking experienced (sex, labor, or both), types of client enrollment, types of services and benefits provided along with aggregate information on the amount of money spent on each type of service provided, the types of entities providing medical services, the amount of money provided to those entities, the amount of money expended on each type of client enrollment, types of partnerships developed through the grant with subrecipients, and the types of training and technical assistance provided to subrecipient organizations or other partners.

Respondents: Trafficking Victim Assistance Program Grantees.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Client Characteristics and Enrollment Form	3,300	1,100	1	1	1,100
Client Service Use and Delivery Form	3,300	1,100	1	.25	275
Client Case Closure Form	3,300	1,100	1	.167	183.7
Barriers to Service Delivery and Monitoring Form	261	261	15	.167	217.935
TVAP Spending Form	261	261	3	.75	195.75
Partnership Development Enrollment Form	1	1	261	.25	21.75
Partnership Development Exit form	1	1	261	.083	7.221
Training Form	1	1	12	.5	2
Technical Assistance Form	1	1	12	.5	2

Estimated Total Annual Burden Hours: 2,005.

Authority: 22 U.S.C. 7105.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2019–21759 Filed 10–4–19; 8:45 am]

BILLING CODE 4184–47–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–4284]

Endocrinologic and Metabolic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Endocrinologic and Metabolic Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on November 13, 2019, from 8 a.m. to 5 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability,

visitor parking, and transportation may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2019–N–4284. The docket will close on November 12, 2019. Submit either electronic or written comments on this public meeting by November 12, 2019. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before November 12, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of November 12, 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.

Comments received on or before October 29, 2019, will be provided to the committee. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–N–4284 for ''Endocrinologic and Metabolic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' 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.'' FDA 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 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 the 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: LaToya Bonner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, email: *EMDAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The committee will discuss supplemental new drug application (sNDA) 204629/S–020 for empagliflozin oral tablet, sponsored by Boehringer Ingelheim Pharmaceuticals, Inc., for the following proposed indication: As an adjunct to insulin therapy to improve glycemic control in adults with type 1 diabetes mellitus.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before October 29, 2019, will be provided to

the committee. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 21, 2019. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by October 22, 2019.

Persons attending FDA's advisory committee meetings are advised that FDA is not responsible for providing access to electrical outlets.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact LaToya Bonner (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 2, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–21834 Filed 10–4–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–3500]

Fit for Use Pilot Program Invitation for the Clinical Data Interchange Standards Consortium for Standard for Exchange of Nonclinical Data Implementation Guide: Version 3.1; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of Tuesday, August 20, 2019. The document announced a ''Fit for Use Pilot Program Invitation for the Clinical Data Interchange Standards Consortium for Standard for Exchange of Nonclinical Data Implementation Guide: Version 3.1.'' The document was published with the incorrect contact name, phone number, and email address in the **FOR FURTHER INFORMATION CONTACT** section. This document corrects those errors.

FOR FURTHER INFORMATION CONTACT: Jesse Anderson, Office of Computational Science, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–348–1816, *Jesse.Anderson@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In FR Doc. 2019–17877, appearing on page 43139, in the **Federal Register** of Tuesday, August 20, 2019 (84 FR 43139), the following correction is made:

On page 43140, in the first column, in the **FOR FURTHER INFORMATION CONTACT** section of the document, ''Isaac Chang, Office of Computational Science, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 240–4027501, PRAStaff@fda.hhs.gov.'' is corrected to read ''Jesse Anderson, Office of Computational Science, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–348–1816, *Jesse.Anderson@fda.hhs.gov.*''

Dated: September 30, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–21784 Filed 10–4–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0477]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Investigational Device Exemptions Reports and Records

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 November 6, 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 0910–0078. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10a.m.–12p.m., 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *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.

Investigational Device Exemptions Reports and Records

OMB Control Number 0910–0078—Extension

Section 520(g) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360j(g)) establishes the statutory authority to collect information regarding investigational devices and establishes rules under which new medical devices may be tested using human subjects in a clinical setting. The Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–

115) added section 520(g)(6) to the FD&C Act and permitted changes to be made to either the investigational device or to the clinical protocol without FDA approval of an investigational device exemption (IDE) supplement. An IDE allows a device, which would otherwise be subject to provisions of the FD&C Act, such as premarket notification or premarket approval, to be used in investigations involving human subjects in which the safety and effectiveness of the device is being studied. The purpose of part 812 (21 CFR part 812) is to encourage, to the extent consistent with the protection of public health and safety and with ethical standards, the discovery and development of useful devices intended for human use. The IDE regulation is designed to encourage the development of useful medical devices and allow investigators the maximum freedom possible, without jeopardizing the health and safety of the public or violating ethical standards. To do this, the regulation provides for different levels of regulatory control, depending on the level of potential risk the investigational device presents to human subjects.

Investigations of significant risk devices, ones that present a potential for serious harm to the rights, safety, or welfare of human subjects, are subject to the full requirements of the IDE regulation. Nonsignificant risk device investigations, *i.e.,* devices that do not present a potential for serious harm, are subject to the reduced burden of the abbreviated requirements. The regulation also includes provisions for treatment IDEs. The purpose of these provisions is to facilitate the availability, as early in the device development process as possible, of promising new devices to patients with life-threatening or serious conditions for which no comparable or satisfactory alternative therapy is available. Section 812.10 permits the sponsor of the IDE to request a waiver of any of the requirements of part 812. Sections 812.20, 812.25, and 812.27 describe the information necessary to file an IDE application with FDA. The submission of an IDE application to FDA is required only for significant risk device investigations. Section 812.20 lists the data requirements for the original IDE application, § 812.25 lists the contents of the investigational plan, and § 812.27 lists the data relating to previous investigations or testing. The information in the original IDE application is evaluated by the Center for Devices and Radiological Health to determine whether the proposed investigation will reasonably protect the public health and safety.

Upon approval of an IDE application by FDA, a sponsor must submit certain requests and reports. Under § 812.35, a sponsor who wishes to make a change in the investigation that affects the scientific soundness of the study or the rights, safety, or welfare of the subjects, is required to submit a request for the change to FDA. Section 812.150 requires a sponsor to submit reports to FDA. These requests and reports are submitted to FDA as supplemental applications. This information is needed for FDA to assure protection of human subjects and to allow review of the study's progress. Section 812.36(c) identifies the information necessary to file a treatment IDE application. FDA uses this information to determine if wider distribution of the device is in the interest of the public health. Section 812.36(f) identifies the reports required to allow FDA to monitor the size and scope of the treatment IDE, to assess the sponsor's due diligence in obtaining marketing clearance of the device, and to ensure the integrity of the controlled clinical trials.

Section 812.140 lists the recordkeeping requirements for investigators and sponsors. FDA requires this information for tracking and oversight purposes. Investigators are required to maintain records, including correspondence and reports concerning the study, records of receipt, use or disposition of devices, records of each subject's case history and exposure to the device, informed consent documentation, study protocol, and documentation of any deviation from the protocol. Sponsors are required to maintain records including correspondence and reports concerning the study, records of shipment and disposition, signed investigator agreements, adverse device effects information, and, for a nonsignificant risk device study, an explanation of the nonsignificant risk determination, records of device name and intended use, study objectives, investigator information, investigational review board information, and statement on the extent that good manufacturing practices will be followed.

For a nonsignificant risk device investigation, the investigators' and sponsors' recordkeeping and reporting burden is reduced. Pertinent records on the study must be maintained by both parties, and reports are made to sponsors and institutional review boards (IRBs). Reports are made to FDA only in certain circumstances, *e.g.,* recall of the device, the occurrence of unanticipated adverse effects, and as a consequence of certain IRB actions.

In the **Federal Register** of June 11, 2019 (84 FR 27139), 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]

Activity/21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Waivers—812.10	1	1	1	1	1
IDE Application—812.20, 812.25, and 812.27	229	1	229	80	18,320
Supplements—812.35 and 812.150	654	5	3,270	6	19,620
Treatment IDE Applications—812.36(c)	1	1	1	120	120
Treatment IDE Reporting—812.36(f)	1	1	1	20	20
Total					38,081

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity/21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Original—812.140	229	1	229	10	2,290
Supplemental—812.140	654	5	3,270	1	3,270
Nonsignificant—812.140	356	1	356	6	2,136
Total					7,696

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

Activity/21 CFR section	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Reports for Nonsignificant Risk Studies—812.150	1	1	1	6	6

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimated burden for the information collection reflects an overall decrease of 528 hours. We attribute this adjustment to a decrease in the number of submissions we received over the last few years.

Dated: September 26, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–21785 Filed 10–4–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the Advisory Committee on Interdisciplinary, Community Based Linkages

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the Advisory Committee on Interdisciplinary, Community Based Linkages (ACICBL) will hold public meetings for the 2020 calendar year (CY). Information about ACICBL, agendas, and materials for these meetings can be found on the ACICBL website at *https://www.hrsa.gov/advisory-committees/interdisciplinary-community-linkages/index.html.*

DATES: February 20–21, 2020, 8:30 a.m.–5:00 p.m. Eastern Time (ET) and 8:30 a.m.–2:00 p.m. ET; May 1, 2020, 10:00 a.m.–4:00 p.m. ET; October 20, 2020, 10:00 a.m.–4:00 p.m. ET.

ADDRESSES: The meeting scheduled from February 20–21, 2020, will be held in-person at 5600 Fishers Lane, Room 5E29, Rockville, Maryland 20857 and can be accessed via teleconference and Adobe Connect webinar. The meetings scheduled on May 1, 2020, and October 20, 2020, will both be held via teleconference and Adobe Connect webinar. Instructions for joining the meetings either in-person or remotely will be posted on the ACICBL website 30 business days before the date of the meeting. For meeting information updates, go to the ACICBL website meeting page at *https://www.hrsa.gov/advisory-committees/interdisciplinary-community-linkages/meetings/index.html.*

FOR FURTHER INFORMATION CONTACT: Joan Weiss, Ph.D., RN, CRNP, FAAN, Senior Advisor and Designated Federal Official, Division of Medicine and Dentistry, HRSA, 5600 Fishers Lane, Rockville, Maryland 20857; 301–443–0430; or *BHWACICBL@hrsa.gov.*

SUPPLEMENTARY INFORMATION: ACICBL provides advice and recommendations to the Secretary of HHS on policy, program development, and other matters of significance concerning activities under sections 750–760, Title VII, Part D of the Public Health Service Act. Agenda items are subject to change as priorities dictate. ACICBL meetings and agenda items for CY 2020 may include, but are not limited to, discussion and development of topics for the 18th report. Refer to the ACICBL website listed above for all current and updated information concerning each of the CY 2020 ACICBL meetings, including draft agendas and meeting materials that will be posted before each meeting. Agendas will be posted on the ACICBL website at least 14 calendar days before each meeting.

Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meetings. Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to submit a written statement or make oral comments to the ACICBL should be sent to Joan Weiss using the contact information above at least 5 business days before the scheduled meeting date.

Individuals who need special assistance or another reasonable accommodation should notify Joan Weiss using the contact information listed above at least 10 business days before the meeting they wish to attend. Since the in-person meeting occurs in a federal government building, attendees must go through a security check to enter the building. Non-U.S. Citizen attendees must notify HRSA of their planned attendance at least 20 business days prior to the meeting in order to facilitate their entry into the building. All attendees are required to present government-issued identification prior to entry.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2019–21797 Filed 10–4–19; 8:45 am]

BILLING CODE 4165–15–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 Fellowships: Epidemiology and Population Sciences.

Date: October 31, 2019.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin Riverwalk, San Antonio, 420 W Market St, San Antonio, TX 78205.

Contact Person: Gianina Ramona Dumitrescu, MPH, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4193–C, Bethesda, MD 28092, 301–827–0696, *dumitrescurg@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Bioengineering, Surgery, Anesthesiology and Trauma.

Date: November 1, 2019.

Time: 10:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Guo Feng Xu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892, 301–237–9870, *xuguofen@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Neural Basis of Neurodegenerative Disorders and Neuroprosthetics Development.

Date: November 1, 2019.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Paula Elyse Schauwecker, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Room 5211, Bethesda, MD 20892, 301–760–8207, *schauweckerpe@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Biobehavioral Applications in Motivation, Substance Abuse, and Ethology.

Date: November 1, 2019.

Time: 1:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Serena Chu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, 301–500–5829, *sechu@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: October 1, 2019.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–21739 Filed 10–4–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Office of Research Infrastructure Programs Special Emphasis Panel: Applications for Scientific Conferences.

Date: November 8, 2019.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Kenneth Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3218, MSC 7717, Bethesda, MD 20892, (301) 435–0229, *kenneth.ryan@nih.hhs.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: October 1, 2019.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–21723 Filed 10–4–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2019–0753]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–NEW

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval for the following collection of information; 1625–NEW, Merchant Mariner Credentialing—Job Task Analysis. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before December 6, 2019.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2019–0753] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at *https://*

www.regulations.gov. Additionally, copies are available from: Commandant (CG–612), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. Consistent with the requirements of Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs, and Executive Order 13777, Enforcing the Regulatory Reform Agenda, the Coast Guard is also requesting comments on the extent to which this request for information could be modified to reduce the burden on respondents.

In response to your comments, we may revise the this ICR or decide not to seek approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2019–0753], and must be received by December 6, 2019.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Information Collection Request

Title: Merchant Mariner Credentialing—Job Task Analysis.

OMB Control Number: 1625–NEW.

Summary: The Coast Guard's Merchant Mariner Credentialing Program establishes the requirements for the issuance of a Merchant Mariner Credential (MMC) with the officer or rating endorsements necessary for employment on U.S. flagged vessels. To improve the credentialing process, inform future decisions, and ensure the Coast Guard maintains standards reflecting changes in technology, the Coast Guard is conducting a Job Task Analysis (JTA) for each officer and rating endorsement issued on an MMC. Information shall be collected through focus group discussions and the administration of surveys. Participation is voluntary.

Need: The Coast Guard issues credentials to merchant mariners in accordance with 46 CFR Subchapter B. Screening and assessing applicants for competency ensure they do not present a safety or security risk, they are medically qualified to serve, and that they have the training and experience to serve in the position for which they are applying. The JTA shall inform the training and assessment processes.

Forms: None.

Respondents: Merchant mariners and shoreside personnel.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden is 3,060 hours annually.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: October 1, 2019.

James D. Roppel,

U.S. Coast Guard, Chief, Office of Information Management.

[FR Doc. 2019–21775 Filed 10–4–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2019–0019; OMB No. 1660–0100]

Agency Information Collection Activities: Proposed Collection; Comment Request; General Admissions Applications (Long and Short) and Stipend Forms

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the admission applications and student stipend agreements for FEMA courses and programs that are delivered on-campus and throughout the Nation, in coordination with State and local training officials and local colleges and universities.

DATES: Comments must be submitted on or before December 6, 2019.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2019–0019. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW 8NE, Washington, DC 20472–3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,*

and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Smiley White, Supervisory Program Specialist, United States Fire Administration, 301–447–1055. You may contact the Information Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: FEMA offers courses and programs that are delivered at National Emergency Training Center (NETC) in Emmitsburg, Maryland, the Center for Domestic Preparedness (CDP) in Anniston, Alabama, and throughout the Nation in coordination with State and local training officials and local colleges and universities to carry out the authorities listed below. To facilitate meeting these requirements, FEMA collects information necessary to be accepted for courses and for the student stipend or travel reimbursement program for these courses. There are several organizations within FEMA that deliver training and education in support of the FEMA mission.

1. Section 7 of Public Law 93–498, Federal Fire Prevention and Control Act, as amended, established the National Fire Academy (NFA) to advance the professional development of fire service personnel and of other persons engaged in fire prevention and control activities.

2. Section 611.f. of Subchapter VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) as amended, 42 U.S.C. 5121–5207, authorizes the Director to conduct or arrange, by contract or otherwise, for training programs for the instruction of emergency preparedness officials and other persons in the organization, operation, and techniques of emergency preparedness; conduct or operate schools or classes, including the payment of travel expenses, in accordance with subchapter I of chapter 57 of title 5, United States Code, and the Standardized Government Travel Regulations, and per diem allowances, in lieu of subsistence for trainees in attendance or the furnishing of subsistence and quarters for trainees and instructors on terms prescribed by the Director; and provide instructors and training aids as deemed necessary. This training is conducted through the Emergency Management Institute (EMI).

3. Title XIV of the National Defense Authorization Act of 1997, Public Law 104–201, 110 Stat. 2432; Title I of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1998, Public Law 105–119, 111 Stat. 2440; Sections 403 and 430 of the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135; and Section 611 of the Post-Katrina Emergency Management Reform Act of 2006, Public Law 109–295, 120 Stat. 1355, all authorize CDP to serve as a training facility for all relevant federally supported training efforts that target State and local law enforcement, firefighters, emergency medical personnel, and other key agencies such as public works and State and local emergency management. The focus of the training is to prepare relevant State and local officials to deal with chemical, biological, or nuclear terrorist acts and handle incidents dealing with hazardous materials.

4. Public Law 110–53, 121 Stat. 386, 6 U.S.C. 1102 established a National Domestic Preparedness Consortium within the Department of Homeland Security. According to the enacting legislation, the members of the Consortium consist of CDP; the National Energetic Materials Research and Testing Center, New Mexico Institute of Mining and Technology; the National Center for Biomedical Research and Training, Louisiana State University; the National Emergency Response and Rescue Training Center, Texas A&M University; the National Exercise, Test, and Training Center, Nevada Test Site; the Transportation Technology Center, Incorporated, in Pueblo, Colorado; and the National Disaster Preparedness Training Center, University of Hawaii. Other organizations have been added to the Consortium membership since the passage of the enacting legislation. The Consortium shall identify, test, and deliver training to State, local, and tribal emergency response providers, provide on-site and mobile training at the performance, management, and planning levels, and facilitate the delivery of training by the training partners of the Department.

5. Under the authorities of Executive Orders 12127 and 12148, the Administrator, Federal Emergency Management Agency, is responsible for carrying out the mandates of the public laws mentioned above.

Collection of Information

Title: General Admissions Applications (Long and Short) and Stipend Forms.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0100.

FEMA Forms: FEMA Form 119–25–0–1, replaces 119–25–1, General Admissions Application; FEMA Form 119–25–0–6, Training Registration Form; FEMA Form 119–25–3, Student Stipend Agreement; FEMA Form 119–25–4, Student Stipend Agreement (Amendment); and FEMA Form 119–25–5, National Fire Academy Executive Fire Officer Program Application Admission.

Abstract: FEMA provides training to advance the professional development of personnel engaged in fire prevention and control and emergency management activities through CDP, Emergency Management Institute, NFA, National Training and Education Division, National Domestic Preparedness Consortium, and Rural Domestic Preparedness Consortium.

Affected Public: Business or other for-profit, not-for-profit institutions, Federal Government, and State, local or Tribal Government.

Number of Respondents: 214,300.

Number of Responses: 214,300.

Estimated Total Annual Burden Hours: 24,400.

Estimated Total Annual Respondent Cost: $929,163.

Estimated Respondents' Operation and Maintenance Costs: None.

Estimated Respondents' Capital and Start-Up Costs: None.

Estimated Total Annual Cost to the Federal Government: $2,570,012.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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.

William H. Holzerland,

Sr. Director for Information Management, Mission Support,Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2019–21757 Filed 10–4–19; 8:45 am]

BILLING CODE 9111–72–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002; Internal Agency Docket No. FEMA–B–1962]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before January 6, 2020.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1962, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Town of Amherst, Massachusetts **Project: 17–01–0941S Preliminary Date: June 18, 2019**	
Town of Amherst	Town Hall, 4 Boltwood Avenue, Amherst, MA 01002.

Community	Community map repository address
Seminole County, Oklahoma and Incorporated Areas Project: 17–06–1816S Preliminary Date: May 23, 2019	
City of Konawa	City Hall, 122 North Broadway, Konawa, OK 74849.
City of Maud	City Hall, 208 West Main Street, Maud, OK 74854.
City of Seminole	Municipal Court, 401 North Main Street, Seminole, OK 74868.
City of Wewoka	City Hall, 123 South Mekusukey Avenue, Wewoka, OK 74884.
Town of Bowlegs	Seminole County Courthouse, 110 South Wewoka Avenue, Wewoka, OK 74884.
Town of Cromwell	Town Hall, 100 Jenkins Street, Cromwell, OK 74837.
Town of Lima	Seminole County Courthouse, 110 South Wewoka Avenue, Wewoka, OK 74884.
Town of Sasakwa	Seminole County Courthouse, 110 South Wewoka Avenue, Wewoka, OK 74884.
Unincorporated Areas of Seminole County	Seminole County Courthouse, 110 South Wewoka Avenue, Wewoka, OK 74884.

[FR Doc. 2019–21754 Filed 10–4–19; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002; Internal Agency Docket No. FEMA–B–1964]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Arizona:						
Maricopa	City of Glendale (19–09–1678P).	The Honorable Jerry Weiers, Mayor, City of Glendale, 5850 West Glendale Avenue, Glendale, AZ 85301.	City Hall, 5850 West Glendale Avenue, Glendale, AZ 85301.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 3, 2020	040045
Maricopa	City of Goodyear (19–09–1678P).	The Honorable Georgia Lord, Mayor, City of Goodyear, 190 North Litchfield Road, Goodyear, AZ 85338.	Engineering and Development Services, 14455 West Van Buren Street, Suite D101, Goodyear, AZ 85338.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 3, 2020	040046
Maricopa	Unincorporated Areas of Maricopa County (19–09–1678P).	The Honorable Bill Gates, Chairman, Board of Supervisors, Maricopa County, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 3, 2020	040037
California:						
Riverside	City of Cathedral City (19–09–0367P).	The Honorable Mark Carnevale, Mayor, City of Cathedral City, 68700 Avenida Lalo Guerrero, Cathedral City, CA 92234.	Engineering Department, 68–700 Avenida Lalo Guerrero, Cathedral City, CA 92234.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 3, 2020	060704
Riverside	City of Palm Springs (19–09–0367P).	The Honorable Robert Moon, Mayor, City of Palm Springs, 3200 East Tahquitz Canyon Way, Palm Springs, CA 92262.	Public Works and Engineering Department, 3200 East Tahquitz Canyon Way, Palm Springs, CA 92262.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 3, 2020	060257
Florida: Duval	City of Jacksonville (19–04–2699P).	The Honorable Lenny Curry, Mayor, City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	Edward Ball Building Development Services, Room 2100, 214 North Hogan Street, Jacksonville, FL 32202.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 27, 2019	120077
Hawaii:						
Hawaii	Hawaii County (19–09–0188P).	The Honorable Harry Kim, Mayor, Hawaii County, 25 Aupuni Street, Suite 2603, Hilo, HI 96720.	Hawaii County Department of Public Works, Engineering Division, 101 Pauahi Street, Suite 7, Hilo, HI 96720.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 10, 2020	155166
Maui	Maui County (19–09–0247P).	The Honorable Michael P. Victorino, Mayor, County of Maui, 200 South High Street, Kalana O Maui Building 9th Floor, Wailuku, HI 96793.	County of Maui Planning Department, 2200 Main Street, Suite 315, Wailuku, HI 96793.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 8, 2020	150003
Kansas:						
Johnson	City of Lenexa (19–07–0874P).	The Honorable Michael Boehm, Mayor, City of Lenexa, 17101 West 87th Street Parkway, Lenexa, KS 66219.	City Hall, 12350 West 87th Street Parkway, Lenexa, KS 66215.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 15, 2020	200168
Johnson	City of Overland Park (19–07–0057P).	The Honorable Carl Gerlach, Mayor, City of Overland Park, 8500 Santa Fe Drive, Overland Park, KS 66212.	City Hall, 8500 Santa Fe Drive, Overland Park, KS 66212.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 8, 2020	200174
Johnson	City of Prairie Village (19–07–0057P).	The Honorable Erik Mikkelson, Mayor, City of Prairie Village, 7700 Mission Road, Prairie Village, KS 66208.	City Hall, 7700 Mission Road, Prairie Village, KS 66208.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 8, 2020	200175
Missouri: Jackson	City of Lee's Summit (19–07–1150P).	The Honorable Bill Baird, Mayor, City of Lee's Summit, 220 Southeast Green Street, Lee's Summit, MO 64063.	Department of Public Works, 220 Southeast Green Street, Lee's Summit, MO 64063.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 2, 2020	290174
New York: Essex	Town of Willsboro (19–02–0483P).	Mr. Shaun Gillilland, Town Supervisor, Town of Willsboro, 5 Farrell Road, Willsboro, NY 12996.	Town Hall, 5 Farrell Road, Willsboro, NY 12996.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 5, 2020	360267
Ohio: Butler	City of Monroe (18–05–4114P).	The Honorable Robert E. Routson, Mayor, City of Monroe, P.O. Box 330, Monroe, OH 45050.	Village Hall, 233 South Main Street, Monroe, OH 45050.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 2, 2020	390042

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Oregon: Lane	Unincorporated Areas of Lane County (19–10–0523P).	Mr. Jay Bozievich, Commissioner, Lane County, Lane County Public Service Building, 125 East 8th Street, Eugene, OR 97401.	Lane County Planning Department, Public Service Building, 125 East 8th Street, Eugene, OR 97401.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 10, 2020	415591
Washington: Mason.	Unincorporated Areas of Mason County (19–10–1106P).	Mr. Kevin Shutty, County Commissioner, Mason County, 411 North 5th Street, Shelton, WA 98584.	Mason County Public Works, 100 West Public Works Drive, Shelton, WA 98584.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 10, 2020	530115

[FR Doc. 2019–21758 Filed 10–4–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Colorado:					
Arapahoe (FEMA Docket No.: B–1935).	City of Cherry Hills Village (19–08–0093P).	The Honorable Russell Stewart, Mayor, City of Cherry Hills Village, 2450 East Quincy Avenue, Cherry Hills Village, CO 80113.	Community Development Department, 2450 East Quincy Avenue, Cherry Hills Village, CO 80113.	Aug. 16, 2019	080013
El Paso (FEMA Docket No.: B–1948).	Town of Palmer Lake (18–08–1108P).	The Honorable John Cressman, Mayor, Town of Palmer Lake, P.O. Box 208, Palmer Lake, CO 80910.	Building Department, 2880 International Circle, Colorado Springs, CO 80910.	Sep. 11, 2019	080065

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
El Paso (FEMA Docket No.: B–1948).	Unincorporated areas of El Paso County (18–08–1108P).	The Honorable Mark Waller, Chairman, El Paso County Board of Commissioners, 200 South Cascade Avenue, Suite 100, Colorado Springs, CO 80903.	El Paso County Building Department, 2880 International Circle, Colorado Springs, CO 80910.	Sep. 11, 2019	080059
Florida:					
Alachua (FEMA Docket No.: B–1931).	Unincorporated areas of Alachua County (19–04–0622P).	The Honorable Charles ''Chuck'' Chestnut, IV, Chairman, Alachua County Board of Commissioners, 12 Southeast 1st Street, Gainesville, FL 32601.	Alachua County Public Works Department, 5620 Northwest 120th Lane, Gainesville, FL 32653.	Aug. 21, 2019	120001
Monroe (FEMA Docket No.: B–1935).	City of Marathon (19–04–2110P).	The Honorable John Bartus, Mayor, City of Marathon, 9805 Overseas Highway, Marathon, FL 33050.	Planning Department, 9805 Overseas Highway, Marathon, FL 33050.	Aug. 22, 2019	120681
Monroe (FEMA Docket No.: B–1931).	Village of Islamorada (19–04–1674P).	The Honorable Deb Gillis, Mayor, Village of Islamorada, 86800 Overseas Highway, Islamorada, FL 33036.	Building Department, 86800 Overseas Highway, Islamorada, FL 33036.	Aug. 15, 2019	120424
Orange (FEMA Docket No.: B–1935).	City of Orlando (18–04–5643P).	The Honorable Buddy W. Dyer, Mayor, City of Orlando, P.O. Box 4990, Orlando, FL 32802.	Public Works Department, Engineering Division, 400 South Orange Avenue, 8th Floor, Orlando, FL 32801.	Aug. 27, 2019	120186
Osceola (FEMA Docket No.: B–1939).	City of St. Cloud (19–04–0673P).	The Honorable Nathan Blackwell, Mayor, City of St. Cloud, 1300 9th Street, St. Cloud, FL 34769.	Building Department, 1300 9th Street, St. Cloud, FL 34769.	Aug. 22, 2019	120191
Osceola (FEMA Docket No.: B–1939).	Unincorporated areas of Osceola County (19–04–0673P).	The Honorable Cheryl Grieb, Chair, Osceola County Board of Commissioners, 1 Courthouse Square, Suite 4700, Kissimmee, FL 34741.	Osceola County Development Review Department, 1 Courthouse Square, Suite 1400, Kissimmee, FL 34741.	Aug. 22, 2019	120189
Montana:					
Fergus (FEMA Docket No.: B–1935).	City of Lewistown (18–08–1160P).	Ms. Holly Phelps, Manager, City of Lewistown, 305 West Watson Street, Suite 3, Lewistown, MT 59457.	Planning/Community Development Department, 305 West Watson Street, Suite 3, Lewistown, MT 59457.	Aug. 26, 2019	300022
Fergus (FEMA Docket No.: B–1935).	Unincorporated areas of Fergus County (18–08–1160P).	The Honorable Ross Butcher, Presiding Officer/Commissioner, Fergus County Board of Commissioners, 712 West Main Street, Suite 210, Lewistown, MT 59457.	Fergus County Planning Department, 712 West Main Street, Suite 101, Lewistown, MT 59457.	Aug. 26, 2019	300019
Madison (FEMA Docket No.: B–1931).	Town of Ennis (18–08–1265P).	The Honorable Blake Leavitt, Mayor, Town of Ennis, P.O. Box 147, Ennis, MT 59729.	Town Hall, 328 West Main Street, Ennis, MT 59729.	Aug. 16, 2019	300044
New Mexico:					
Taos (FEMA Docket No.: B–1948).	Town of Taos (18–06–3973P).	The Honorable Daniel R. Barrone, Mayor, Town of Taos, 400 Camino De La Placita, Taos, NM 87571.	Department of Public Works, 400 Camino De La Placita, Taos, NM 87571.	Sep. 6, 2019	350080
Taos (FEMA Docket No.: B–1948).	Town of Taos (18–06–4061P).	The Honorable Daniel R. Barrone, Mayor, Town of Taos, 400 Camino De La Placita, Taos, NM 87571.	Department of Public Works, 400 Camino De La Placita, Taos, NM 87571.	Sep. 13, 2019	350080
Taos (FEMA Docket No.: B–1939).	Unincorporated areas of Taos County (19–06–0621P).	Mr. Brent Jaramillo, Manager, Taos County, 105 Albright Street, Suite G, Taos, NM 87571.	Taos County Planning Department, 105 Albright Street, Taos, NM 87571.	Aug. 30, 2019	350078
North Dakota:					
McHenry (FEMA Docket No.: B–1935).	City of Velva (18–08–0850P).	The Honorable Jennifer Soli, Mayor, City of Velva, P.O. Box 219, Velva, ND 58790.	City Hall, 101 1st Street West, Velva, ND 58790.	Aug. 16, 2019	380051
McHenry (FEMA Docket No.: B–1935).	Township of Velva (18–08–0850P).	The Honorable James Hystad, Chairman, Township of Velva, 1920 47th Street North, Velva, ND 58790.	Township Hall, 4725 19th Avenue North, Velva, ND 58790.	Aug. 16, 2019	380310
Oklahoma:					
Muskogee (FEMA Docket No.: B–1939).	Town of Porum (19–06–1205P).	The Honorable Carl Warren, Chairman, Town of Porum Council, P.O. Box 180, Porum, OK 74455.	City Hall, 105 South Arkansas Street, Porum, OK 74455.	Sep. 13, 2019	400127
Muskogee (FEMA Docket No.: B–1939).	Unincorporated areas of Muskogee County (19–06–1205P).	The Honorable Ken Doke, Commissioner, District 1 Muskogee County, 3000 North Street, Muskogee, OK 74403.	Muskogee County Emergency Management, Department, 3000 North Street, Muskogee, OK 74403.	Sep. 13, 2019	400491
South Carolina: Charleston (FEMA Docket No.: B–1931).	City of Isle of Palms (19–04–1752P).	The Honorable Jimmy Carroll, Mayor, City of Isle of Palms, 1207 Palm Boulevard, Isle of Palms, SC 29451.	Building and Planning Department, 1207 Palm Boulevard, Isle of Palms, SC 29451.	Aug. 21, 2019	455416
Tennessee: Sumner (FEMA Docket No.: B–1939).	City of Gallatin (18–04–7343P).	The Honorable Paige Brown, Mayor, City of Gallatin, 132 West Main Street, Gallatin, TN 37066.	Planning Department, 132 West Main Street, Gallatin, TN 37066.	Sep. 6, 2019	470185
Texas:					
Bexar (FEMA Docket No.: B–1948).	City of San Antonio (18–06–2819P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capitol Improvements Department, Stormwater Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	Sep. 3, 2019	480045

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Bexar (FEMA Docket No.: B–1948).	City of San Antonio (18–06–2885P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capitol Improvements Department, Stormwater Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	Sep. 9, 2019	480045
Bexar (FEMA Docket No.: B–1948).	Unincorporated areas of Bexar County (18–06–2819P).	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	Sep. 3, 2019	480035
Collin (FEMA Docket No.: B–1939).	City of McKinney (18–06–2399P).	The Honorable George Fuller, Mayor, City of McKinney, P.O. Box 517, McKinney, TX 75070.	Engineering Department, 221 North Tennessee Street, McKinney, TX 75069.	Sep. 9, 2019	480135
Collin (FEMA Docket No.: B–1935).	City of Plano (18–06–3629P).	The Honorable Harry LaRosiliere, Mayor, City of Plano 1520 K Avenue, Suite 300, Plano, TX 75074.	Engineering Department, 1520 K Avenue, Suite 250, Plano, TX 75074.	Aug. 23, 2019	480140
Collin (FEMA Docket No.: B–1935).	City of Plano (18–06–3759P).	The Honorable Harry LaRosiliere, Mayor, City of Plano 1520 K Avenue, Suite 300, Plano, TX 75074.	Engineering Department, 1520 K Avenue, Suite 250, Plano, TX 75074.	Aug. 30, 2019	480140
Dallas (FEMA Docket No.: B–1939).	City of Rowlett (18–06–3684P).	Mr. Brian Funderburk, Manager, City of Rowlett, 4000 Main Street, Rowlett, TX 75088.	Community Development Department, 3901 Main Street, Rowlett, TX 75088.	Sep. 13, 2019	480185
Denton (FEMA Docket No.: B–1931).	City of Fort Worth (18–06–3549P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works Department, 200 Texas Street, Fort Worth, TX 76102.	Aug. 22, 2019	480596
Denton (FEMA Docket No.: B–1931).	City of Roanoke (18–06–3549P).	The Honorable Carl ''Scooter'' Gierisch, Jr., Mayor, City of Roanoke, 108 South Oak Street, Roanoke, TX 76262.	City Hall, 500 South Oak Street, Roanoke, TX 76262.	Aug. 22, 2019	480785
Denton (FEMA Docket No.: B–1931).	Town of Northlake (18–06–3549P).	The Honorable Peter Dewing, Mayor, Town of Northlake, 1500 Commons Circle, Suite 300, Northlake, TX 76226.	Public Works Department, 1400 FM 407, Northlake, TX 76247.	Aug. 22, 2019	480782
Denton (FEMA Docket No.: B–1931).	Town of Prosper (19–06–0890X).	The Honorable Ray Smith, Mayor, Town of Prosper, P.O. Box 307, Prosper, TX 75078.	Engineering Services Department, 409 East 1st Street, Prosper, TX 75078.	Aug. 22, 2019	480141
Kaufman (FEMA Docket No.: B–1935).	City of Forney (18–06–3890P).	Mr. Tony Carson, Manager, City of Forney, 101 East Main Street, Forney, TX 75126.	Engineering Department, 101 East Main Street, Forney, TX 75126.	Aug. 30, 2019	480410
Smith (FEMA Docket No.: B–1935).	City of Tyler (19–06–0647P).	The Honorable Martin Heines, Mayor, City of Tyler, P.O. Box 2039, Tyler, TX 75710.	Development Center, 423 West Ferguson Street, Tyler, TX 75710.	Sep. 3, 2019	480571
Tarrant (FEMA Docket No.: B–1948).	City of Fort Worth (18–06–3936P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works Department, 200 Texas Street, Fort Worth, TX 76102.	Sep. 6, 2019	480596
Tarrant (FEMA Docket No.: B–1935).	City of Grand Prairie (19–06–0321P).	The Honorable Ron Jensen, Mayor, City of Grand Prairie, P.O. Box 534045, Grand Prairie, TX 75053.	Development Center, 206 West Church Street, Grand Prairie, TX 75050.	Sep. 3, 2019	485472
Utah:					
Carbon (FEMA Docket No.: B–1931).	City of Price (18–08–1056P).	The Honorable Michael Kourianos, Mayor, City of Price, 185 East Main Street, Price, UT 84501.	Public Works Department, 432 West 600 South, Price, UT 84501.	Aug. 15, 2019	490036

[FR Doc. 2019–21755 Filed 10–4–19; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6184–N–01]

The Performance Review Board

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of appointments.

SUMMARY: The Department of Housing and Urban Development announces the establishment of the Departmental Performance Review Board (PRB) to make recommendations to the appointing authority on the performance and compensation of its Senior Executive Service (SES), Senior Level (SL) and Senior Technical (ST) professionals.

FOR FURTHER INFORMATION CONTACT: Persons desiring any further information about the PRB and its members may contact Heather R. Dieguez, Acting Director, Office of Executive Resources, Department of Housing and Urban Development, Washington, DC 20410. Telephone (202) 402–3380. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The following persons may be named to serve on the PRB from 2019 to 2021. They are listed by type of appointment, name, and official title.

NAME	OFFICIAL TITLE
CAREER SES	
AMMON, MATTHEW E	DIRECTOR, OFFICE OF HEALTHY HOMES AND LEAD HAZARD CONTROL.
BALLARD, DANIEL L	DEPUTY ASSISTANT CFO FOR BUDGET.
BASTARACHE, DANIELLE L	DAS, FOR PUBLIC HOUSING AND VOUCHER PROG.
BENISON, JOHN P	DIRECTOR, OFFICE OF DEPARTMENTAL EEO.
BETTS, SUSAN A	DEPUTY A/S FOR FINANCE AND BUDGET.

NAME	OFFICIAL TITLE
BLOM, DOMINIQUE G	GENERAL DEPUTY A/S FOR PIH.
BOHLING, GAYLE E	DEPUTY GENERAL COUNSEL OPERATIONS.
BOYD, JANICE L	DAS, FOR BUSINESS MGMT & ADMIN/CMO.
BREGON, NELSON R	CHIEF ADMINISTRATIVE OFFICER.
BROWN, AMY L	ASSOCIATE GENERAL CONSEL FOR INSURED HSG.
BROWN, JEREON M	GENERAL DEPUTY ASSISTANT SECRETARY FOR PUBLIC AFFAIRS.
BRYON, JEMINE A	DAS FOR SPECIAL NEEDS PROGRAMS.
BURKE, PATRICIA M	DIR, OFFICE OF MULTIFAMILY PRODUCTION.
CLEMMENSEN, CRAIG T	DIRECTOR, DEPARTMENTAL ENFORCEMENT CTR.
COOKE JR, KEVIN R	PRINCIPAL DEPUTY, CIO.
COOPER-JONES, BARBARA M	SR VP, OFC OF ENTERPRISE DATA TECH SOLUTIONS.
CORSIGLIA, NANCY E	DEPUTY CIO FOR BUSINESS & IT RESOURCES.
CUMMINGS, ANTHONY W	ASSOCIATE GENERAL COUNSEL FOR ETHICS AND PERSONNEL LAW.
DAUGHERTY, JOHN T	SENIOR VICE PRESIDENT, OFFICE OF SECURITIES OPERATIONS.
DAVIS, THOMAS R	DIR, OFFICE OF RECAPITALIZATION.
DRAYNE, MICHAEL R	SENIOR VICE PRESIDENT STRATEGIC PLANNING.
ENZEL, DAVID H	DAS FOR ENFORCEMENT AND PROGRAMS.
FERRY, SHYLON C	DIRECTOR FOR BUDGET AND FINANCIAL MGMT.
FLEMING SCOTT, JIMMY	DEPUTY CHIEF PROCUREMENT OFFICER.
FLOM, RONALD C	CHIEF PROCUREMENT OFFICER.
FORERO, JAIME E	DAS FOR OPERATIONS AND MANAGEMENT.
FORRESTER, ALTHEA M	ASSOCIATE GEN COUNSEL FOR ASST HSG & COMMUNITY DEV.
FRECHETTE, HEIDI J	D/A SECRETARY FOR NATIVE AMERICAN PROGRAMS.
GAITHER, FELICIA R	DAS, FOR FIELD OPERATIONS.
GERECKE, SARAH L	DAS, FOR OFFICE OF HOUSING COUNSELING.
GETCHIS, JOHN F	SR. V-PRESIDENT OFC OF CAPITAL MARKETS.
GOLRICK, JANET A	SENIOR ADVISOR.
GREENE, BRYAN	ASSOCIATE DEPUTY ASSISTANT SECRETARY FHEO.
HADLEY, JOY L	DIR, OFFICE OF LENDER ACTIVITIES & PROGRAM COMPLIANCE.
HALLIDAY, TOBIAS	DIR, OFC OF ASSET MGMT & PORTFOLIO OVERSIGHT.
HIMES, IVERY W	DIR, OFC OF SINGLE-FAMILY ASSET MGT.
HUNGATE, JOSEPH I	ASSISTANT CFO FOR SYSTEMS.
JOHNSON, CALVIN C	DAS, FOR THE OFFICE OF RESEARCH, EVALUATION & MONITORING.
KEITH, GREGORY A	SENIOR VICE PRESIDENT AND CHIEF RISK OFFICER.
KORNEGAY, EMILY M	ASST CFO FOR BUDGET.
KUBACKI, MELAJO K	ASSISTANT CHIEF FINANCIAL OFFICER FOR FINANCIAL MANAGEMENT.
LITTLE, JEFFREY D	ASSOCIATE DAS, FOR MULTIFAMLY HSNG PROGRAMS.
LOFINMAKIN, ADETOKUNBO	SENIOR VICE PRESIDENT & CHIEF FINANCIAL.
LUKOFF, ROGER M	DAS, FOR HEALTHCARE PROGRAMS.
MATTHEWS, MONICA M P	CHIEF HUMAN CAPITAL OFFICER.
MICHALSKI, LORI A	DEPUTY ASSISTANT SECRETARY FOR OPERATIONS.
MILLS, KRISTA	DAS, OFC OF POLICY, LEGISLATIVE INITIATIVES.
MORRIS, VANCE T	ASSOCIATE GENERAL DAS, FOR HOUSING.
MULDERIG, ROBERT E	ASSOCIATE DAS, FOR SINGLE-FAMILY HOUSING.
NARODE, DANA M	ASSOCIATE GEN COUNSEL FOR PROGRAM ENFORCEMENT.
NIGAM, NITA	ASSISTANT CFO FOR ACCOUNTING.
PAO, JEAN LIN	DIRECTOR, OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION.
POTTS, MILLICENT B	DEPUTY GENERAL COUNSEL FOR HOUSING.
PRESTON, TAWANNA	SR VP OF ADMIN & SR. ADV TO OFC OF THE PRESIDENT.
PURIFOY, FELICIA A	DIRECTOR, OFFICE OF HUMAN CAPITAL SERVICES.
RICHARDSON, TODD M	GDAS FOR POLICY DEVELOPMENT & RESEARCH.
SARDONE, VIRGINIA M	DIRECTOR OFFICE OF AFFORDABLE HOUSING.
SARGEANT, JUAN C	DEPUTY CIO FOR INFRASTRUCTURE & OPERAT.
SAUNDERS, ELISSA O	DIR, OFC OF SINGLE-FAMILY PROGRAMS DEV.
SCOTT, PAUL A	BUSINESS CHANGE & INTEGRATION OFFICER.
SIMPSON, KEVIN M	ASSOCIATE GEN COUNSEL FOR FINANCE AND ADMINISTRATIVE LAW.
SMYTH, TIMOTHY M	ASSOCIATE ASST DEPUTY SECRETARY FOR FPM.
TOMCHICK, GEORGE J	DEPUTY CHIEF FINANCIAL OFFICER.
USOWSKI, KURT G	DEP A/S FOR ECONOMIC AFFAIRS.
VARGAS, DAVID A	ASSOCIATE DEP ASST SEC FOR REAL ESTATE ASSMT CTR.
WORDEN, JEANINE M	ASSOCIATE GEN COUNSEL FOR FAIR HOUSING.
WRIGHT, SHEILA D	CHIEF LEARNING OFFICER.
NON-CAREER SES	
BAKER JR, JOHN C	DEPUTY CHIEF OF STAFF.
BECKER, KEITH N	DAS, FOR RISK MANAGEMENT AND REGULATORY AFFAIRS.
BOBBITT, JOHN N	DEPUTY ASSISTANT SECRETARY FOR OPERATIONS.
BOWES, ROBERT B	SENIOR ADVISOR.
BRAVACOS, JOHN G	GDAS FOR COMMUNITY PLANNING & DEVELOPMENT.
BROWN, CHRISTINA M	DIRECTOR OF REGULATORY REFORM.
BUNTYN, JAMES A	SENIOR ADVISOR (CYBER SECURITY AND RISK MANAGEMENT).
CHOW, DAVID C	CHIEF INFORMATION OFFICER.
CLEVELAND LEGGETT, DENISE	REGIONAL ADMINISTRATOR (ATLANTA).
COWAN JR, CHARLES D	PRINCIPAL DAS FOR ADMINISTRATION.

NAME	OFFICIAL TITLE
DEFELICE, JOSEPH J	REGIONAL ADMINISTRATOR (PHILADELPHIA).
DEMARZO, BENJAMIN E	ASST DEPUTY SECRETARY FOR FPM.
GORMLEY, JOSEPH M	CHIEF OF STAFF TO THE DEPUTY SECRETARY.
GRASSI III, JOSEPH J	PRINCIPAL DEPUTY GENERAL COUNSEL.
HUFF, DANIEL	GDAS FOR FHEO.
HUGHES, ANDREW D	CHIEF OF STAFF.
KASPER, MAREN M	EXECUTIVE VICE PRESIDENT (POLICY).
KELLEY, MICHAEL J	GDAS FOR CONG & INTERGOVERNMENTAL RELATIONS.
PATTON, LYNNE M	REGIONAL ADMINISTRATOR (NEW YORK).
PETTY, TIMOTHY J	DEPUTY GENERAL COUNSEL FOR ENFORCEMENT.
ROGET, GISELE G	DAS FOR SINGLE-FAMILY.
SEATS, CHRISTOPHER L	DAS FOR MULTIFAMILY HOUSING.
TURNER, ERIC S	SENIOR ADVISOR.
WOLL JR, DAVID C	PRINCIPAL DAS, FOR CPD.
SES LIMITED	
ALLEN, MICHAEL T	SENIOR ADVISOR FOR TRANSFORMATION.
GARVIN, JOHN L	SR ADVISOR FOR ORGANIZATION, TRANSFORMATION AND MODERNIZATION.
OPPENHEIMER, DROR	SR ADVISOR FOR RESOURCE MANAGEMENT.

Dated: October 1, 2019.

Benjamin S. Carson, Sr.,

Secretary.

[FR Doc. 2019–21838 Filed 10–4–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R3–ES–2018–0037; FXES11130300000–189–FF03E00000]

Final Environmental Impact Statement on MidAmerican Energy Company's Habitat Conservation Plan for Midwestern Bat and Bird Species in Iowa

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: In accordance with the Endangered Species Act, as amended, and the National Environmental Policy Act, we, the U.S. Fish and Wildlife Service, announce the availability of the final environmental impact statement and draft record of decision analyzing the impacts of issuance of an incidental take permit (ITP) for implementation of the MidAmerican Energy Company's *Final Habitat Conservation Plan MidAmerican Energy Company Iowa Wind Energy Project Portfolio* (HCP). Our decision is to issue a 30-year ITP for implementation of the HCP, which authorizes incidental take of the federally endangered Indiana bat, federally threatened northern long-eared bat, federally protected bald eagle, the little brown bat, and tricolored bat under the Endangered Species Act.

DATES: We will finalize the record of decision and issue a permit no sooner than 30 days after the publication of this notice of availability in the **Federal Register**.

ADDRESSES: Electronic copies of the documents this notice announces will be available online in Docket No. FWS–R3–ES–2018–0037 at *http://www.regulations.gov*.

Paper copies will be available at 22 county libraries in Iowa. Additional electronic copies of the documents as well as the list of libraries with paper copies will be available at *https://www.fws.gov/midwest/rockisland/te/MidAmericanHCP.html*.

FOR FURTHER INFORMATION CONTACT: Amber Schorg, Fish and Wildlife Biologist, or Kraig McPeek, Illinois-Iowa Ecological Services Office Project Leader, Illinois-Iowa Field Office, by U.S. mail at 1511 47th Ave., Moline, IL 61265, or by phone at 309–757–5800.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the availability of several documents related to an incidental take permit application under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The final environmental impact statement (EIS) and draft record of decision (ROD) were developed in compliance with the agency decision-making requirements of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), and are based on the habitat conservation plan as submitted by MidAmerican Energy Company (applicant). We described, fully evaluated, and analyzed all seven alternatives in detail in our 2019 final EIS. The draft ROD documents the rationale for our decision. The final ROD will be available on the Service website no sooner than 31 days after this notice. In addition to this notice, the Environmental Protection Agency (EPA) is publishing a notice announcing the EIS, as required under the Clean Air Act, section 309 (42 U.S.C. 7609; see *EPA's Role in the EIS Process* below).

Proposed Action

Our proposed action is to issue an ITP to the applicant under section 10(a)(1)(B) of the ESA, (16 U.S.C. 1539(a)(1)(B)), that authorizes incidental take of the federally endangered Indiana bat, federally threatened northern long-eared bat, and federally protected bald eagle, as well as the little brown bat and tricolored bat, from the applicant's maintenance and operation of its wind power generation facilities in Iowa. Little brown bat and tricolored bat are not federally protected, but they are currently being evaluated for protection. Additionally, 50 CFR 22.11 provides for the permitting of eagles under ESA permits. The applicant has chosen to include these as covered species and treated them as if they were ESA listed.

MidAmerican Energy Company is one of the largest electric utilities in Iowa, and operates over 22 projects with more than 4,040 MW of installed energy generation capacity. MidAmerican Energy Company's ability to serve its customers depends on the predictable operation and maintenance of its wind power facilities. The plan area for the HCP includes areas where authorized incidental take would occur and conservation measures would take place, covering all of Iowa. The applicant requested a term of 30 years from the date of ITP issuance to include the operational life of the covered projects. The applicant will implement minimization and mitigation measures to offset impacts to the covered species according to the HCP.

The applicant has agreed to include the following minimization measures:

- Feathering turbine blades at all projects below manufacturer's cut-in speeds at night for the entire active season for bats. Feathering below cut-in speeds is a way of minimizing the rotational speed of turbine blades when not producing energy.
- Minimizing the rotational speed of turbine blades until wind speeds reach 5.0 meters per second when temperatures are above 50 degrees Fahrenheit from mid-July through September at four facilities with the highest risk to covered bat species.
- Removing carrion and increasing landowner education efforts to reduce attractants to bald eagles.
- Carrying out a fatality monitoring and adaptive management program to adjust conservation measures if needed to ensure compliance with the ITP and HCP.

The mitigation measures include the following commitments:

- Protecting and restoring a minimum of 1,309 acres of bat habitat and 42 artificial structures for bat use.
- Protecting and restoring additional bat habitat up to a total of 3,200 acres, and 50 artificial structures, if needed, to compensate for projected future take based on the monitoring program results.
- Providing funding to manage and monitor all mitigation lands.
- Providing funding for conservation activities to immediately benefit bald eagles to mitigate for take of bald eagles.
- Providing mitigation funding in advance of take so that mitigation implementation stays ahead of impacts to covered species.

Background

The applicant has applied for an ITP under the ESA that would authorize incidental take of four bat species and bald eagles and would be in effect for a period of 30 years. The proposed incidental take of bats and eagles would occur from lawful, non-Federal activities from the applicant's operation of existing wind energy generation facilities within the permit area. The HCP permit area includes lands used for operations of 22 projects in Iowa where the applicant has existing wind power facilities. The plan area includes the permit area, and also the rest of Iowa, to include all areas that may be influenced by the HCP, including mitigation activities. The final EIS considers the direct, indirect, and cumulative effects of implementing the HCP, including measures to minimize and mitigate such impacts to the maximum extent practicable.

Section 9 of the ESA and its implementing regulations prohibit the ''take'' of animal species listed as endangered or threatened. (16 U.S.C. 1538) *Take* is defined under the ESA as to ''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or to attempt to engage in such conduct''(16 U.S.C. 1532(19)). Under section 10(a)(1)(B) of the ESA, the Service may issue permits to authorize incidental take of listed species. *Incidental take* is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity.

Section 10(a)(1)(B) of the ESA contains provisions for issuing incidental take permits to non-Federal entities for the incidental take of endangered and threatened species, provided the following criteria are met: (a) The taking will be incidental; (b) the applicant will minimize and mitigate, to the maximum extent practicable, the impact of such taking; (c) the applicant will develop an HCP and ensure that adequate funding for the plan will be provided; (d) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (e) the applicant will carry out any other measures that the Secretary of the Interior may require as being necessary or appropriate for the purposes of the HCP. An applicant may choose to cover non-listed species in the HCP, and these species will be treated as ESA-listed species.

On August 31, 2018, we published a **Federal Register** notice announcing the availability for public review of a draft EIS and requested public comment on our evaluation of the potential impacts associated with issuance of an ITP for implementation of the HCP and to evaluate alternatives (83 FR 44652). In September and October 2018, we held two public hearings on the draft document, one in Ankeny, Iowa, and one via online web conference. The public comment period closed on October 15, 2018. We received 93 comments in total: 87 through *regulations.gov,* 5 comments via email, 2 comments during the in-person public hearing, and 1 through the U.S. mail. The final EIS provides responses to those comments in Appendix E.

Decision

We intend to issue a final ROD with respect to whether we issue an ITP allowing the applicants to implement the *Iowa Wind Energy Project Portfolio Habitat Conservation Plan.* Our decision will be based on a thorough review of the alternatives and their environmental consequences. A decision to issue an ITP would be based on the commitment by MidAmerican Energy Company to fully implement the HCP, including minimization and mitigation measures, monitoring and adaptive management, and to fully comply with all terms and conditions in the ITP.

A final ITP decision will be made no sooner than 30 days after the publication of this notice of availability and completion of the record of decision.

EPA's Role in the EIS Process

In addition to this notice, EPA is publishing a notice in the **Federal Register** announcing final EIS for MidAmerican Energy Company's *Iowa Wind Energy Project Portfolio Habitat Conservation Plan,* as required under the Clean Air Act, section 309. The EPA is charged with reviewing all Federal agencies' EISs and commenting on the adequacy and acceptability of the environmental impacts of proposed actions in EISs.

The EPA also serves as the repository (EIS database) for EISs that Federal agencies prepare. All EISs must be filed with EPA, which publishes a notice of availability on Fridays in the **Federal Register**. For more information, see *https://www.epa.gov/nepa.* You may search for EPA comments on EISs, along with EISs themselves, at *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C.1539(c)) and its implementing regulations (50 CFR 17.22) and the NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR part 46).

Lori Nordstrom,

Acting Regional Director.

[FR Doc. 2019–21547 Filed 10–3–19; 11:15 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2019–N136; FXES11130800000–178–FF08E00000]

Endangered and Threatened 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 or survival of endangered or threatened species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on 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 November 6, 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) (*e.g.,* TEXXXXXX).

- *Email: permitsr8es@fws.gov.*
- *U.S. Mail:* Daniel Marquez, Endangered Species Program Manager, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825.

FOR FURTHER INFORMATION CONTACT: Daniel Marquez, via phone at 760–431–9440, via email at *permitsr8es@fws.gov,* or via 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 or threatened 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 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 Applications 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 these permits. Accordingly, we invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to these applications. 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	Activity	Type of take	Permit action
TE–062907	Andrew Forde, Camarillo, California.	• Southwestern willow flycatcher (*Empidonax traillii extimus*).	CA	Nest monitoring.	Nest monitoring.	Amend.
TE–55035D	Adam Crawford, Sharon, Massachusetts.	• California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segments (DPSs)) (*Ambystoma californiense*).	CA	Survey	Survey, capture, handle, and release.	New.
TE–813545	Brock Ortega, Poway, California.	• Southwestern willow flycatcher (*Empidonax traillii extimus*). • Quino checkerspot butterfly (*Euphydryas editha quino*). • Casey's June Beetle (*Dinacoma caseyi*). • Conservancy fairy shrimp (*Branchinecta conservatio*). • Longhorn fairy shrimp (*Branchinecta longiantenna*). • San Diego fairy shrimp (*Branchinecta sandiegonensis*). • Riverside fairy shrimp (*Streptocephalus woottoni*). • Vernal pool tadpole shrimp (*Lepidurus packardi*).	CA	Survey	Survey, capture, handle, release, and collect vouchers.	Renew and amend.
TE–55068D	Allie Sennett, Sacramento, California.	• California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segments (DPSs)) (*Ambystoma californiense*).	CA	Survey	Survey, capture, handle, and release.	New.

Application No.	Applicant, city, state	Species	Location	Activity	Type of take	Permit action
TE–25164A	Catherine Little, Davis, California.	• California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segments (DPSs)) (*Ambystoma californiense*). • Conservancy fairy shrimp (*Branchinecta conservatio*). • Longhorn fairy shrimp (*Branchinecta longiantenna*). • San Diego fairy shrimp (*Branchinecta sandiegonensis*). • Riverside fairy shrimp (*Streptocephalus woottoni*). • Vernal pool tadpole shrimp (*Lepidurus packardi*).	CA	Survey	Survey, capture, handle, release, and collect vouchers.	Renew and amend.
TE–038701	Bonnie Peterson, Lakeside, California.	• Southwestern willow flycatcher (*Empidonax traillii extimus*). • Quino checkerspot butterfly (*Euphydryas editha quino*). • Light-footed clapper rail (light-footed Ridgway's r.) (*Rallus longirostris levipes*) (*R. obsoletus l.*).	CA	Survey and band.	Survey, pursue, capture, handle, band, and release.	Renew.
TE–55135D	Adam Lockyer, Fallbrook, California.	• Southwestern willow flycatcher (*Empidonax traillii extimus*).	CA, NV, AZ ...	Survey	Survey	New.
TE–049461	Jaymee Marty, Sacramento, California.	• California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segments (DPSs)) (*Ambystoma californiense*). • Conservancy fairy shrimp (*Branchinecta conservatio*). • Longhorn fairy shrimp (*Branchinecta longiantenna*). • San Diego fairy shrimp (*Branchinecta sandiegonensis*). • Riverside fairy shrimp (*Streptocephalus woottoni*). • Vernal pool tadpole shrimp (*Lepidurus packardi*).	CA	Survey	Survey, capture, handle, release, and collect vouchers.	Renew.
TE–94998A	Leonard Liu, Oakland, California.	• Salt marsh harvest mouse (*Reithrodontomys raviventris*).	CA	Survey	Survey, capture, handle, and release.	Amend.
TE–92462A	Ryan Quilley, San Diego, California.	• Quino checkerspot butterfly (*Euphydryas editha quino*).	CA	Survey	Pursue	Renew and amend.
TE–55171D	Matthew Schliebe, San Diego, California.	• Conservancy fairy shrimp (*Branchinecta conservatio*). • Longhorn fairy shrimp (*Branchinecta longiantenna*). • San Diego fairy shrimp (*Branchinecta sandiegonensis*). • Riverside fairy shrimp (*Streptocephalus woottoni*). • Vernal pool tadpole shrimp (*Lepidurus packardi*).	CA	Survey	Survey, capture, handle, release, and collect vouchers.	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 permits to any of 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.*).

Peter Erickson,

Acting Chief of Ecological Services, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2019–21816 Filed 10–4–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2019–N139; FXES11140400000–190–FF04E00000]

Endangered Species; 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 or 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 written data or comments on the applications by November 6, 2019.

ADDRESSES: *Reviewing Documents:* Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act. Submit a request for a copy of such documents to Karen Marlowe (see **FOR FURTHER INFORMATION CONTACT**).

Submitting Comments: If you wish to comment, you may submit comments by one of the following methods:

- *U.S. mail or hand-delivery:* U.S. Fish and Wildlife Service Regional Office, Ecological Services, 1875 Century Boulevard, Atlanta, GA 30345 (Attn: Karen Marlowe, Permit Coordinator).
- *Email: permitsR4ES@fws.gov.* Please include your name and return address in your email message. If you do not receive a confirmation from the U.S. Fish and Wildlife Service that we have received your email message, contact us directly at the telephone number listed in **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Karen Marlowe, Permit Coordinator, 404–679–7097 (telephone), *karen_marlowe@fws.gov* (email), or 404–679–7081 (fax). Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We invite review and comment from local, State, and Federal agencies and the public on applications we have received for permits to conduct certain activities with endangered and threatened species under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17. With some exceptions, the ESA prohibits activities that constitute take of listed species unless a Federal permit is issued that allows such activities. The ESA's definition of ''take'' includes hunting, shooting, harming, wounding, or killing, and also such activities as pursuing, harassing, trapping, capturing, or collecting.

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 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 Applications 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 these permits. Accordingly, we invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies.

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.

Permit application No.	Applicant	Species/numbers	Location	Activity	Type of take	Permit action
TE98596B–1	Sarah Veselka, Fairmont, WV.	Dwarf wedgemussel (*Alasmidonta heterodon*), Purple cat's paw (*Epioblasma obliquata obliquata*), white cat's paw (*Epioblasma obliquata perobliqua*), cracking pearlymussel (*Hemistena lata*), ring pink (*Obovaria retusa*), James spinymussel (*Pleurobema collina*), orangefoot pimpleback (*Plethobasus cooperianus*), and rough pigtoe (*Pleurobema plenum*).	Alabama, Arkansas, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Maryland, Michigan, Minnesota, Mississippi, Missouri, New York, North Carolina, New Hampshire, New Jersey, Ohio, Oklahoma, Pennsylvania, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin.	Presence/absence surveys.	Capture, handle, identify, tag, and release.	Amendment.
TE 50089D–0	Eneilis Mulero Oliveras, Canovanas, PR.	Puerto Rican boa (*Epicrates inornatus*), Virgin Islands tree boa (*Epicrates monensis granti*), and Mona boa (*Epicrates monensis monensis*).	Puerto Rico and U.S. Virgin Islands.	Spatial analysis of Snake fungal disease.	Capture, handle, swab, PIT-tag, scale-clip, and release.	New.
TE064856–4	Trent Farris, Gulf Shores, AL.	Alabama beach mouse (*Peromyscus polionotus ammobates*), Perdido Key beach mouse (*Peromyscus polionotus trissyllepsis*), Choctawatchee beach mouse (*Peromyscus polionotus allophrys*), and St. Andrew beach mouse (*Peromyscus polionotus peninsularis*).	Alabama and Florida ..	Presence/absence surveys.	Trap, mark, examine, and release.	Renewal.
TE34882A–2	Mark Bailey, Andalusia, AL.	Red-cockaded woodpecker (*Picoides borealis*), black pine snake (*Pituophis melanoleucus lodingi*), eastern indigo snake (*Drymarchon corais couperi*), flattened musk turtle (*Sternotherus depressus*), gopher tortoise (*Gopherus polyphemus*), frosted flatwoods salamander (*Ambystoma cingulatum*), Red Hills salamander (*Phaeognathus hubrichti*), Black Warrior waterdog (*Necturus alabamensis*), and dusky gopher frog (*Rana sevosa*).	Alabama, Florida, Georgia, Mississippi, North Carolina, and South Carolina.	Presence/absence surveys and population monitoring.	Red-cockaded woodpecker (construct and monitor artificial roost cavities and restrictors); gopher tortoise (scope burrows, trap, handle, mark, collect blood); black pine snake (capture, handle, mark, PIT-tag, radio-tag, and release); all others (capture, handle, identify, and release).	Renewal and Amendment.
TE35313B–4	Emma Willcox, University of Tennessee, Knoxville, TN.	Gray bat (*Myotis grisescens*), northern long-eared bat (*Myotis septentrionalis*), and Indiana bat (*Myotis sodalis*).	Alabama, Arkansas, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Virginia, and West Virginia.	Research on ecology and behavior, habitat management, and response to white-nose syndrome.	Enter hibernacula or maternity roost caves, capture with mist nets or harp nets, handle, identify, collect hair and blood samples, band, radio tag, PIT-tag, light-tag, swab, fungal lift-tape, wing-punch, and release.	Renewal.

Permit application No.	Applicant	Species/numbers	Location	Activity	Type of take	Permit action
TE52113D–0	Devin Bingham, Irmo, SC.	Gray bat (*Myotis grisescens*), northern long-eared bat (*Myotis septentrionalis*), and Indiana bat (*Myotis sodalis*).	Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.	Presence/absence surveys.	Capture with mist nets or harp nets, band, radio-tag, and release.	New.
TE78650B–1	Cassie Schmidt, Fayetteville, AR.	American burying beetle (*Nicrophorus americanus*).	Arkansas, Kansas, Missouri, and Oklahoma.	Presence/absence surveys.	Live-trap and release ..	Renewal.
TE18986C–2	North Carolina Zoological Park, Asheboro, NC.	Virgin Islands tree boa (*Epicrates monensis granti*).	Puerto Rico	Captive propagation and reintroduction, maintenance of a satellite population in captivity, genetic analyses and disease screenings, and habitat use studies.	Remove from the wild, handle, PIT-tag, collect blood and tissue samples, radio-tag, and salvage.	Amendment.
TE834070–3	Point Defiance Zoo, Tacoma, WA.	Red wolf (*Canis rufus*)	Tacoma, WA	Irritable bowel syndrome study.	Anesthetize, collect blood, and collect stomach and duodenum samples via endoscopy.	Amendment.
TE011542–1	Conservation Fisheries, Inc., Knoxville, TN.	Roanoke logperch (*Percina rex*).	North Carolina and Tennessee.	Captive propagation and reintroduction.	Collect up to 24 brood stock each year for 3 years to produce progeny for reintroduction in the Dan River, North Carolina.	Amendment.
TE016270–10	U.S. Army, Fort Benning, GA.	Red-cockaded woodpecker (*Picoides borealis*).	Alabama, Florida, Georgia, and Mississippi.	Population management and monitoring.	Capture, band, construct and monitor artificial nest cavities and restrictors, and translocate.	Renewal.
TE53898D–0	U.S. Department of Agriculture, Animal and Plant Health Inspection Service, San Juan, PR.	*Harrisia portoricensis* (higo chumbo) and *Leptocereus grantianus* (no common name).	Cabo Rojo National Wildlife Refuge (NWR), Culebra Island NWR, Desecheo Island NWR, and Vieques Island NWR, Puerto Rico..	Germplasm conservation and collection of voucher specimens.	Collect seeds, seedlings, flowers, and plant parts.	New.

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.*).

Franklin Arnold,

Deputy Assistant Regional Director, Ecological Services, Southeast Region.

[FR Doc. 2019–21783 Filed 10–4–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

[FWS–R4–ES–2019–N127; FVHC98220410150–XXX–FF04H00000]

Deepwater Horizon Oil Spill Florida Trustee Implementation Group Phase V.3 Florida Coastal Access Project: Final Restoration Plan and Supplemental Environmental Assessment

AGENCY: Department of the Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act of 1969 (NEPA), the *Deepwater Horizon* Oil Spill Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement (Final PDARP/PEIS), and the resulting Consent Decree, the Federal and State natural resource trustee agencies for the Florida Trustee Implementation Group (Florida TIG) have approved the Final Phase V.3 Restoration Plan and Supplemental Environmental Assessment (Final Phase V.3 RP/SEA) and Finding of No Significant Impact (FONSI). The Final

Phase V.3 RP/SEA supplements two previous documents, the 2016 Final Phase V Early Restoration Plan and Environmental Assessment (Final Phase V ERP/EA) and the 2018 Final Phase V.2 Restoration Plan and Supplemental Environmental Assessment (Final Phase V.2 RP/SEA). In the Final Phase V.3 RP/SEA, the FL TIG selects for funding the third phase of the Florida Coastal Access Project, which is intended to continue the process of restoring natural resources and services injured or lost as a result of the *Deepwater Horizon* oil spill. The purpose of this notice is to inform the public of the availability of the Final Phase V.3 RP/SEA and FONSI.

ADDRESSES: *Obtaining Documents:* You may download the Final Phase V.3 RP/SEA at any of the following sites:

- *http://www.doi.gov/deepwaterhorizon*
- *http://www.gulfspillrestoration.noaa.gov*
- *http://dep.state.fl.us/deepwaterhorizon/default.htm*

Alternatively, you may request a CD of the Final Phase V.3 RP/SEA (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Nanciann Regalado, at *nanciann_regalado@fws.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

The Florida Coastal Access Project was selected for funding and implementation in Phase V of *Deepwater Horizon* early restoration. In the 2011 Framework Agreement for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill (Framework Agreement), BP agreed to provide to the Trustees up to $1 billion toward early restoration projects in the Gulf of Mexico to address injuries to natural resources caused by the *Deepwater Horizon* oil spill. The Framework Agreement represented a preliminary step toward the restoration of injured natural resources and was intended to expedite the start of restoration in the Gulf in advance of the completion of the injury assessment process. In the five phases of the early restoration process, the Trustees selected, and BP Exploration and Production, Inc. (BP) agreed to fund, a total of 65 early restoration projects expected to cost a total of approximately $877 million. The Trustees selected these projects after public notice, public meetings, and consideration of public comments.

The Consent Decree, as discussed in the ''Background'' section below, terminated and replaced the Framework Agreement and provided that the Trustees shall use remaining early restoration funds as specified in the early restoration plans and in accordance with the Consent Decree. The Trustees have determined that decisions concerning any unexpended early restoration funds are to be made by the appropriate TIG, in this case the Florida TIG.

A notice of availability of the Draft Phase V.3 Restoration Plan and Supplemental Environmental Assessment was published in the **Federal Register** on June 21, 2019 (84 FR 29231). The public was provided with a period to review and comment on the Draft Restoration Plan, from June 21, 2019, through July 22, 2019, and a public meeting was held on July 18, 2019, in Navarre, Florida. The Florida TIG considered the public comments received, which informed the TIG's analyses and selection of the preferred restoration alternative, the Navarre Beach Marine Park Addition project, in the Final Phase V.3 RP/SEA. A summary of the public comments received, and the Florida TIG's responses to those comments, are addressed in Chapter 5 of the Final Phase V.3 RP/SEA. The FONSI is included as Appendix C of the Final Phase V.3 RP/SEA.

Background

On April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon,* which was being used to drill a well for BP, in the Macondo prospect (Mississippi Canyon 252–MC252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest off shore oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over 1 million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

The Trustees conducted the natural resource damage assessment (NRDA) for the *Deepwater Horizon* oil spill under OPA. Pursuant to OPA (OPA; 33 U.S.C. 2701 *et seq.*), Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The *Deepwater Horizon* Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (EPA);
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- State of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

On April 4, 2016, the Trustees reached and finalized a settlement of their natural resource damage claims with BP in a Consent Decree approved by the United States District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in the Florida Restoration Area are now chosen and managed by the Florida TIG. The Florida TIG is composed of the following six Trustees: State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; DOI; NOAA; EPA; and USDA.

Overview of the Final Phase V.3 RP/SEA

The Final Phase V.3 RP/SEA/FONSI is being released in accordance with OPA, NRDA regulations found in the Code of Federal Regulations (CFR) at 15 CFR part 990, NEPA, the Consent Decree, the Final PDARP/PEIS, and the Final Phase V ERP/EA.

The Florida TIG has selected to fund the third phase of the Florida Coastal Access Project in the Final Phase V.3 RP/SEA to address lost recreational

opportunities caused by the *Deepwater Horizon* oil spill in the Florida Restoration Area. In the Final Phase V.3 RP/SEA, the Florida TIG selected one alternative for funding, the Navarre Beach Marine Park Addition, which involves the acquisition of an approximately 4.75-acre coastal inholding parcel in Santa Rosa County within the existing Navarre Beach Marine Park property. The Florida Coastal Access Project was allocated approximately $45.4 million in early restoration funds, and the cost of the Navarre Beach Marine Park Addition is approximately $2 million from remaining funds not utilized in the first and second phases of the project. Details on the third phase of the project are provided in the Final Phase V.3 RP/SEA. Additional restoration planning for the Florida Restoration Area will continue.

Administrative Record

The documents comprising the Administrative Record for the Final Phase V.3 RP/SEA can be viewed electronically at *http://www.doi.gov/deepwaterhorizon/administrativerecord.*

Authority

The authority for this action is the Oil Pollution Act of 1990 (33 U.S.C. *2701 et seq.*) and its implementing Natural Resource Damage Assessment regulations found at 15 CFR part 990 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Mary Josie Blanchard,

Director of Gulf of Mexico Restoration, Department of Interior.

[FR Doc. 2019–21804 Filed 10–4–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

[FWS–R4–ES–2019–N126]; [FVHC98220410150–XXX–FF04H00000]

Deepwater Horizon Oil Spill 2019 Final Supplemental Restoration Plan and Finding of No Significant Impact; Mississippi Trustee Implementation Group

AGENCY: Department of the Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act (NEPA), the *Deepwater Horizon* Oil Spill Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement (Final PDARP/PEIS), Record of Decision, and Consent Decree, the Federal and State natural resource trustee agencies for the Mississippi Trustee Implementation Group (Mississippi TIG) have prepared a *Mississippi Trustee Implementation Group 2019 Final Supplemental Restoration Plan: Grand Bay Land Acquisition and Habitat Management* (SRP) and *Finding of No Significant Impact* (FONSI). The SRP approves an additional $10,000,000 in funds for additional land acquisition and habitat management within the Grand Bay Land Acquisition and Habitat Management project (Grand Bay Project) area. The Mississippi TIG originally evaluated and selected the Grand Bay Project as part of the *Mississippi Trustee Implementation Group 2016–2017 Restoration Plan/Environmental Assessment* (2016–2017 RP/EA). Additional land acquisition and habitat management for the Grand Bay Project will continue the process of conserving and restoring wetlands, coastal, and nearshore habitats injured as a result of the *Deepwater Horizon* oil spill. The purpose of this notice is to inform the public of the availability of the final SRP and FONSI.

ADDRESSES: *Obtaining Documents:* You may download the SRP and FONSI from either of the following websites:

- *http://www.gulfspillrestoration.noaa.gov*
- *https://www.doi.gov/deepwaterhorizon/adminrecord*

Alternatively, you may request a CD of the SRP and FONSI (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Nanciann Regalado, via email at nanciann_regalado@fws.gov, via telephone at 678–296–6805, or via the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Introduction

Notice of availability of the draft SRP was published in the **Federal Register** on July 2, 2019 (84 FR 31618). The MS TIG provided the public 30 days to review and comment on the draft SRP. Comments submitted during that time were reviewed and addressed by the MS TIG before finalizing the SRP. Details are provided in the final SRP. Additional restoration planning for the Mississippi Restoration Area will continue.

Background

On April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon,* which was being used to drill a well for BP Exploration and Production, Inc. (BP), in the Macondo prospect (Mississippi Canyon 252–MC252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest offshore oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over 1 million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

The Trustees conducted the natural resource damage assessment (NRDA) for the *Deepwater Horizon* oil spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. 2701 *et seq.*). Pursuant to OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. The OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The *Deepwater Horizon* Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (EPA);
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality (MDEQ);
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- State of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

On April 4, 2016, the United States District Court for the Eastern District of Louisiana entered a Consent Decree resolving civil claims by the *DWH* oil spill trustees against BP Exploration and Production Inc. (BP) arising from the *DWH* oil spill: *United States* v. *BPXP et al., Civ. No. 10–4536,* centralized in MDL 2179, In re: Oil Spill by the Oil Rig ''Deepwater Horizon'' in the Gulf of Mexico, on April 20, 2010 (E.D. La.) (*http://www.justice.gov/enrd/deepwater-horizon*). Pursuant to that Consent Decree, restoration projects in Mississippi are now selected and implemented by the Mississippi TIG. The Mississippi TIG is composed of one State and four Federal Trustees: MDEQ, DOI, NOAA, USDA, and EPA.

Overview of the Mississippi TIG SRP

In the final SRP and FONSI, the MS TIG selected an additional $10 million in funding to support further acquisition and/or habitat management and project success monitoring within the project area of the Grand Bay Project originally selected in the 2016–2017 RP/EA. In that document, the MS TIG evaluated and selected several restoration projects from a reasonable range of alternatives. Projects selected for implementation included the Grand Bay Project. As described in Section 3.4 of the 2016–2017 RP/EA, the Mississippi TIG allocated $6 million to initiate the acquisition and to commence management in nearshore coastal and wetland habitats within the Grand Bay Project area, which includes the acquisition boundaries of the Grand Bay National Wildlife Refuge (Refuge), the Grand Bay National Estuarine Research Reserve (NERR), and the Grand Bay Savanna Coastal Preserve (Preserve). The final 2016–2017 RP/EA can be found at *https://www.gulfspillrestoration.noaa.gov/2017/07/mississippi-trustee-implementation-group-releases-first-restoration-plan.*

In accordance with NEPA, as part of the final SRP, the Trustees issued a FONSI. The FONSI is available in Appendix A of the final SRP.

Administrative Record

The documents comprising the Administrative Record for the SRP can be viewed electronically at *https://www.doi.gov/deepwaterhorizon/adminrecord.*

Authority

The authority for this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*) and its implementing Natural Resource Damage Assessment regulations found at 15 CFR part 990 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Mary Josie Blanchard,

Director of Gulf of Mexico Restoration, Department of Interior.

[FR Doc. 2019–21802 Filed 10–4–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAC09000 L16100000.DR000 19XL; MO #4500136521]

Notice of Availability for the Record of Decision for the Central Coast Field Office Approved Resource Management Plan Amendment for Oil and Gas Leasing and Development, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) announces the availability of the Record of Decision (ROD) for the Central Coast Field Office Approved Resource Management Plan (RMP) Amendment. This plan amendment identifies the Federal mineral estate, located primarily in Fresno, Monterey and San Benito counties, California, that is available for oil and gas leasing and development. It also identifies leasing stipulations to protect resources.

DATES: The BLM California Acting State Director signed the ROD on October 4, 2019, which constitutes the final decision of the agency and makes the approved RMP amendment effective immediately. Signing of the ROD also authorizes the issuance, with controlled surface use stipulations, of implementation-level decisions regarding 14 previously litigated oil and gas leases in Monterey and San Benito counties. Signing of the ROD initiates a 30-day appeal period for these leasing decisions to the Interior Board of Land Appeals.

ADDRESSES: Copies of the ROD and approved RMP amendment are available upon request from the Bureau of Land Management Central Coast Field Office, 940 2nd Ave., Marina, CA 93933 or via the internet at *https://go.usa.gov/xyFh5.* Copies of the ROD and approved RMP amendment are available for public inspection at the BLM Central Coast Field Office, and at the BLM California State Office, 2800 Cottage Way, Suite W1623, Sacramento, CA 95825.

FOR FURTHER INFORMATION CONTACT: Sky Murphy, BLM Planning and Environmental Coordinator, telephone: (831) 582–2200; address: Bureau of Land Management Central Coast Field Office, 940 2nd Ave., Marina, CA 93933; or email: *blm_ca_ogeis@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at (800) 877–8339 to contact Sky Murphy during normal business hours. FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM's decision makes approximately 680,000 acres of Federal mineral estate available for leasing with controlled surface use stipulations and another roughly 42,000 acres available for leasing with no surface occupancy requirements. An additional 67,500 acres of Federal mineral estate are closed to leasing and development in designated wilderness areas, wilderness study areas, and national monuments. The BLM plan also supports recovery of threatened and endangered plants and animals in the Ciervo Panoche Natural Area by protecting core populations from surface disturbance. This decision does not authorize any actual drilling for exploration or development of oil and gas resources. The BLM predicts a range from zero to 37 new oil and gas wells could be developed on Federal mineral estate during the next 20 years as a result of this plan amendment. Any future proposals for leasing or development would go through additional environmental reviews based on site-specific project information and other requirements for consultation, coordination and public involvement. The ROD also authorizes issuance of implementation-level decisions for 14 previously litigated oil and gas leases.

The Notice of Availability for the proposed RMP amendment and Final EIS was published on May 10, 2019, initiating a 30-day public protest period (84 FR 20657). The Final EIS analyzed the environmental impacts of six alternative amendments to the RMP including the No Action Alternative. The BLM received 436 protests, 24 of which were from parties with standing. Of the 24 protests with standing, seven were denied as the issues are already addressed in the document and 17 were dismissed as they did not raise protestable issues. The remaining 412 protests were dismissed due to lack of standing.

In accordance with the regulations at 43 CFR 1610.3–2(e), the BLM submitted the proposed RMP amendment and Final EIS for a 60-day Governor's Consistency Review on May 10, 2019. On July 9, 2019, the Governor of California submitted a letter to the BLM California Acting State Director asserting inconsistencies between the proposed RMP amendment and State land use plans, programs, and policies related to the impacts of climate change. The BLM Acting California State Director issued a response to the Governor that addressed the recommendation of the Governor on August 1, 2019. Pursuant to 43 CFR 1610.3–2(e), the BLM provided a 30-day period for the Governor to appeal this response to the BLM Director. That appeal period closed on August 30, 2019, and no appeal was received. Therefore, this decision approves Alternative F, the BLM's preferred alternative in the Final EIS, with no modifications.

Administrative remedies are available to those who are a party to the case and are adversely affected by the leasing decisions included in this ROD. An administrative appeal may be made to the Office of Hearings and Appeals, Office of the Secretary, U.S. Department of Interior, Board of Land Appeals (Board) in strict compliance with the regulations in 43 CFR part 4. Notices of appeal must be filed with the BLM officer who made the decision within 30 days after publication of this decision. If a notice of appeal does not include a statement of reasons, such statement must be filed with the BLM California State Office, 2800 Cottage Way, W1623, Sacramento, CA 95825 and the Board within 30 days after the notice of appeal is filed. The notice of appeal and any statement of reasons, written arguments, or briefs must also be served upon the Regional Solicitor: U.S. Department of the Interior, Office of the Solicitor, Pacific Southwest Region, 2800 Cottage Way, Room E–1712, Sacramento, CA 95825–1890.

Before including your phone number, email address, or other personal identifying information in your appeal, you should be aware that your entire appeal—including your personal identifying information—may be made publicly available at any time. While you can ask us in your appeal to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 40 CFR 1506.6)

Danielle Chi,

Deputy State Director, Fire and Resources.

[FR Doc. 2019–21654 Filed 10–4–19; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0004]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Interstate Firearms Shipment Theft/Loss Report—ATF F 3310.6

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 August 1, 2019, allowing for a 60-day comment period. Comments are encouraged and will be accepted for an additional 30 days until November 6, 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: Neil Troppman, ATF National Tracing Center either by mail at 244 Needy Road, Martinsburg, WV 25405, by email at *neil.troppman@atf.gov,* or by telephone at 304–260–3643. 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:* Revision of a currently approved collection.

(2) *The Title of the Form/Collection:* Interstate Firearms Shipment Theft/Loss Report.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF F 3310.6.

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: Business or other for-profit.

Other: Federal Government.

Abstract: 27 CFR part 478 requires Federal Firearms Licensees' (FFLs) who discover that a firearm(s) it shipped was stolen or lost in transit, must report the theft or loss to ATF and the appropriate local authorities within 48 hours of discovery. Reports can be filed using the Interstate Firearms Shipment Theft/Loss Report—ATF Form 3310.6.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 950 respondents will utilize the form, and it will take each respondent approximately 20 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 317 hours, which is equal to 950 (# of respondents) *1 (# of responses per respondents) * .3333 (20 minutes).

(7) *An Explanation of the Change in Estimates:* The adjustment associated

with this collection include an increase in both the respondents and total burden hours for this IC by 400 and 135 respectively, since the last renewal in 2016.

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: October 2, 2019.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019–21781 Filed 10–4–19; 8:45 am]

BILLING CODE 4410–14–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0091]

Agency Information Collection Activities; Proposed eCollection eComments Requested; National Response Team Customer Satisfaction Survey

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 August 1, 2019, allowing for a 60-day comment period. Comments are encouraged and will be accepted for an additional 30 days until November 6, 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: Jennifer George, Fire Investigations & Arson Enforcement Division, either by mail at ATF NCETR, Corporal Road, Building 3750, Redstone Arsenal, Huntsville, AL 35898, by email at *Jennifer.George@atf.gov,* or by telephone at 256–261–7614. 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:* Revision of a currently approved collection.

(2) *The Title of the Form/Collection:* National Response Team Customer Satisfaction Survey.

(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: The National Response Team Customer Satisfaction Survey is used to obtain feedback regarding services provided by the ATF National Response Team.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 32 respondents will utilize the survey, and it will take each respondent approximately 15 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 eight (8) hours, which is equal to 32 (# of respondents) * 1 (# of responses per respondent) * .25 (15 minutes).

(7) *An Explanation of the Change in Estimates:* The adjustment to the public burden includes an increase the number of respondents from 20 in 2016, to 32. Consequently, the total burden hours has also increased slightly from 5 hours in 2016, to 8 hours.

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: October 2, 2019.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019–21780 Filed 10–4–19; 8:45 am]

BILLING CODE 4410–14–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Cambridge Isotope Laboratories, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before November 6, 2019. Such persons may also file a written request for a hearing on the application on or before November 6, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette

Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on July 9, 2019, Cambridge Isotope Laboratories, 50 Frontage Road, Andover, Massachusetts 01810 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid.	2010	I
Tetrahydrocannabinols	7370	I
Morphine	9300	II

The company plans to import the listed controlled substances for analytical research, testing and clinical trials.

Dated: September 27, 2019.

Thomas W. Prevoznik,

Acting Assistant Administrator, Deputy Assistant Administrator.

[FR Doc. 2019–21829 Filed 10–4–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1105–0086]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of and Renewal of Previously Approved Collection; Comments Requested: Electronic Applications for the Attorney Student Loan Repayment Program

AGENCY: Office of Attorney Recruitment and Management, Justice Management Division Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Justice Management Division, Office of Attorney Recruitment and Management (OARM), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: The Department of Justice encourages public comment and will accept input until December 6, 2019.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Deana Willis, Assistant Director, Office of Attorney Recruitment and Management, 450 5th Street NW, Suite 10200, Washington, DC 20530; *Deana.Willis@usdoj.gov;* (202) 514–8902.

SUPPLEMENTARY INFORMATION: Written comments and/or 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:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Office of Attorney Recruitment and Management, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Evaluate whether, and if so, how, the quality, utility, and clarity of the information to be collected can be enhanced; 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:* Renewal of a Currently Approved Collection.

2. *The title of the form/collection:* Electronic Applications for the Attorney Student Loan Repayment Program.

3. *The agency form number, if any, and the applicable component of the department sponsoring the collection:* There is no agency form number for this collection. The applicable component within the Department of Justice is the Office of Attorney Recruitment and Management, Justice Management Division, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Other: None. The Department of Justice Attorney Student Loan Repayment Program (ASLRP) is an agency recruitment and retention incentive program based on 5 U.S.C. 5379, as amended, and 5 CFR part 537. Individuals currently employed as a DOJ attorney and incoming hires for attorney positions within the Department may request consideration for the ASLRP. The Department selects new participants during an annual open season each spring and renews current beneficiaries (DOJ employees) who remain qualified for these benefits, subject to availability of funds. There are two application forms—one for new requests, and the other for renewal requests. A justification form (applicable to new requests only) and a loan continuation form complete the collection. The ''new request'' form is submitted voluntarily, by current DOJ employees as well as by incoming DOJ attorney hires who, if selected, do not receive benefits until they are a DOJ employee. Renewal requests are submitted by only by current DOJ employees—no non-employees would qualify.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* The Department anticipates about 275 respondents annually will complete the new request form and justification form and apply for participation in the ASLRP. Of those, an average of 10 or less are incoming attorney hires who have not yet entered on duty with the DOJ. In addition, each year the Department expects to receive approximately 110 applications from current employees (DOJ attorneys) requesting renewal of the benefits they received in the preceding year. It is estimated that each new request (including justification) will take two (2) hours to complete, and each renewal request approximately 20 minutes to complete.

6. *An estimate of the total public burden (in hours) associated with the collection:*

a. The estimated burden associated with this collection is 586 hours, 40 minutes. It is estimated that new applicants will take 2 hours to complete the request form and justification and that previously selected recipients requesting continued funding will take 20 minutes to complete a renewal form. The burden hours for collecting respondent data, 586 hours, 40 minutes, are calculated as follows: 275 new respondents × 2 hours = 550 hours, plus 110 renewing respondents × 20 minutes = 36 hours, 40 minutes.

b. An estimate of the *public* burden focusing only incoming hires and excluding current DOJ employees is 20 hours, calculated as follows: 10 new respondents (incoming hires) × 2 hours = 20 hours.

If additional information is required, please contact: Melody Braswell,

Department Clearance Officer, U.S. Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Room 3E.405B, Washington, DC 20530.

Dated: October 1, 2019.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019–21693 Filed 10–4–19; 8:45 am]

BILLING CODE 4410–24–P

DEPARTMENT OF LABOR

[Agency Docket Number DOL–2019–0005]

Child Labor, Forced Labor, and Forced or Indentured Child Labor in the Production of Goods in Foreign Countries and Efforts by Certain Foreign Countries To Eliminate the Worst Forms of Child Labor

AGENCY: The Bureau of International Labor Affairs, United States Department of Labor.

ACTION: Notice; request for information and invitation to comment.

SUMMARY: This notice is a request for information and/or comment on three reports issued by the Bureau of International Labor Affairs (ILAB) regarding child labor and forced labor in certain foreign countries. Relevant information submitted by the public will be used by the Department of Labor (DOL) in preparing its ongoing reporting as required under Congressional mandates and a Presidential directive. The 2018 Findings on the Worst Forms of Child Labor report (TDA Report), published on September 27, 2019, discusses efforts of 131 countries and territories to eliminate the worst forms of child labor over the course of 2018 and assesses whether countries made significant, moderate, minimal, or no advancement during that year to address the worst forms of child labor. It also suggests actions foreign countries can take to eliminate the worst forms of child labor through legislation, enforcement, coordination, policies, and social programs. The 2018 edition of the List of Goods Produced by Child Labor or Forced Labor (TVPRA List), published on September 20, 2018, makes available to the public a list of goods from countries that ILAB has reason to believe are produced by child labor or forced labor in violation of international standards. Finally, the List of Products Produced by Forced or Indentured Child Labor (E.O. 13126 List), provides a list of products, identified by country of origin, that DOL, in consultation and cooperation with the Departments of State (DOS) and Homeland Security (DHS), has a reasonable basis to believe might have been mined, produced, or manufactured with forced or indentured child labor. Relevant information submitted by the public will be used by DOL in preparing the next edition of the TDA Report, to be published in 2020; the next edition of the TVPRA List, to be published in 2020; and possible updates to the E.O. 13126 List as needed.

DATES: Submitters of information are requested to provide their submission to DOL's Office of Child Labor, Forced Labor, and Human Trafficking (OCFT) at the email or physical address below by 5 p.m. on January 13, 2020.

ADDRESSES: Information submitted to the Department of Labor should be submitted directly to OCFT, Bureau of International Labor Affairs, U.S. Department of Labor. Comments, identified as ''Docket No. DOL–2019–0005,'' may be submitted by any of the following methods:

1. *Federal eRulemaking Portal:* You may submit electronic comments to: *http://www.regulations.gov.* The portal includes instructions for submitting comments. Parties submitting responses electronically are encouraged not to submit paper copies.

2. *Facsimile (fax):* OCFT, at 202–693–4830.

3. *Mail, Express Delivery, Hand Delivery, and Messenger Service (1 copy):* Austin Pedersen and Chanda Uluca, U.S. Department of Labor, OCFT, Bureau of International Labor Affairs, 200 Constitution Avenue NW, Room S–5315, Washington, DC 20210.

Email: Email submissions should be addressed to both Austin Pedersen (*Pedersen.Austin.M@dol.gov*) and Chanda Uluca (*Uluca.Chanda@dol.gov*).

FOR FURTHER INFORMATION CONTACT: Austin Pedersen, 202–693–4867 and Chanda Uluca, 202–693–4905. Please see email contact information above.

SUPPLEMENTARY INFORMATION:

I. The Trade and Development Act of 2000 (TDA), Public Law 106–200 (2000), established eligibility criteria for receipt of trade benefits under the Generalized System of Preferences (GSP). The TDA amended the GSP reporting requirements of Section 504 of the Trade Act of 1974, 19 U.S.C. 2464, to require that the President's annual report on the status of internationally recognized worker rights include ''findings by the Secretary of Labor with respect to the beneficiary country's implementation of its international commitments to eliminate the worst forms of child labor.''

The TDA Conference Report clarifies this mandate, indicating that the President consider the following when considering whether a country is complying with its obligations to eliminate the worst forms of child labor: ''(1) whether the country has adequate laws and regulations proscribing the worst forms of child labor; (2) whether the country has adequate laws and regulations for the implementation and enforcement of such measures; (3) whether the country has established formal institutional mechanisms to investigate and address complaints relating to allegations of the worst forms of child labor; (4) whether social programs exist in the country to prevent the engagement of children in the worst forms of child labor, and to assist with the removal of children engaged in the worst forms of child labor; (5) whether the country has a comprehensive policy for the elimination of the worst forms of child labor; and (6) whether the country is making *continual progress* toward eliminating the worst forms of child labor.'' (H. Conf. Rept. 106–606, May 4, 2000, p. 124).

DOL fulfills this reporting mandate through annual publication of the U.S. Department of Labor's Findings on the Worst Forms of Child Labor report with respect to countries eligible for GSP. To access the 2018 TDA Report, please visit *https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings/.*

II. Section 105(b) of the Trafficking Victims Protection Reauthorization Act of 2005 (''TVPRA of 2005''), Public Law 109–164 (2006), 22 U.S.C 7112(b), as amended by Section 133 of the Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018, Public Law 115–425, directs the Secretary of Labor, acting through ILAB, to ''develop and make available to the public a list of goods from countries that ILAB has reason to believe are produced by forced labor or child labor in violation of international standards, including, to the extent practicable, goods that are produced with inputs that are produced with forced labor or child labor.'' (TVPRA List).

Pursuant to its mandate under the TVPRA of 2005, on December 27, 2007, DOL published in the **Federal Register** a set of procedural guidelines that ILAB follows in developing the TVPRA List (72 FR 73374). The guidelines set forth the criteria by which information is evaluated; established procedures for public submission of information to be considered by ILAB; and identified the process ILAB follows in maintaining and updating the TVPRA List after its initial publication.

ILAB published its first TVPRA List on September 30, 2009, and issued updates annually from 2010 through 2013. In 2014, ILAB began publishing the TVPRA List every other year, pursuant to changes in the law (see 22 U.S.C. 7112(b)). ILAB can also publish more frequent updates, at its discretion. For a copy of previous editions of the TVPRA List and other related materials, see ILAB's TVPRA web page at *https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods.*

III. Executive Order No. 13126 (E.O. 13126) declared that it was ''the policy of the United States Government . . . that the executive agencies shall take appropriate actions to enforce the laws prohibiting the manufacture or importation of goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part by forced or indentured child labor.'' The E.O. 13126 List is intended to ensure that U.S. federal agencies do not procure goods made by forced or indentured child labor. Under procurement regulations, federal contractors who supply products on the E.O. 13126 List must certify that they have made a good faith effort to determine whether forced or indentured child labor was used to produce the items supplied. Pursuant to E.O. 13126, and following public notice and comment, DOL published in the January 18, 2001, **Federal Register**, a final list of products (''E.O. 13126 List''), identified by country of origin, that the Department, in consultation and cooperation with the Departments of State (DOS) and Treasury [relevant responsibilities are now within the Department of Homeland Security (DHS)], had a reasonable basis to believe might have been mined, produced or manufactured with forced or indentured child labor (66 FR 5353). In addition to the E.O. 13126 List, the Department also published on January 18, 2001, ''Procedural Guidelines for Maintenance of the List of Products Requiring Federal Contractor Certification as to Forced or Indentured Child Labor,'' which provide for maintaining, reviewing, and, as appropriate, revising the E.O. 13126 List (66 FR 5351).

Pursuant to Sections D through G of the Procedural Guidelines, the E.O. 13126 List may be updated through consideration of submissions by individuals or through ILAB's own initiative.

DOL has officially revised the E.O. 13126 List seven times, most recently on March 25, 2019, each time after public notice and comment as well as consultation with DOS and DHS.

The current E.O. 13126 List, Procedural Guidelines, and related information can be accessed on the internet at *https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-products.*

Information Requested and Invitation to Comment: Interested parties are invited to comment and provide information regarding these reports. DOL requests comments on or information relevant to updating the findings and suggested government actions for countries reviewed in the TDA Report, assessing each country's individual advancement toward eliminating the worst forms of child labor during the current reporting period compared to previous years, and maintaining and updating the TVPRA and E.O. Lists, including information on goods produced with inputs that are produced with forced labor or child labor. For more information on the types of issues covered in the TDA Report, please see ''TDA Guidance Questions'' in the appendix of the report. Materials submitted should be confined to the specific topics of the TDA Report, the TVPRA List, and the E.O. 13126 List. DOL will generally consider sources with dates up to five years old (*i.e.,* data not older than January 1, 2015). DOL appreciates the extent to which submissions clearly indicate the time period to which they apply. In the interest of transparency in our reporting, classified information will not be accepted. Where applicable, information submitted should indicate its source or sources, and copies of the source material should be provided. If primary sources are utilized, such as research studies, interviews, direct observations, or other sources of quantitative or qualitative data, details on the research or data-gathering methodology should be provided. Please see the TDA Report, TVPRA List, and the E.O. 13126 List for a complete explanation of relevant terms, definitions, and reporting guidelines employed by DOL. Per our standard procedures, submissions will be published on the ILAB web page at *https://www.dol.gov/agencies/ilab/public-submissions-child-labor-forced-labor-reporting.*

This notice is a general solicitation of comments from the public.

Authority: 22 U.S.C. 7112(b)(2)(C) and 19 U.S.C. 2464.

Signed at Washington, DC, this 30th day of September, 2019.

Martha E. Newton,

Deputy Undersecretary for International Affairs.

[FR Doc. 2019–21610 Filed 10–4–19; 8:45 am]

BILLING CODE 4510–28–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Information Security Oversight Office

[NARA–2020–003]

National Industrial Security Program Policy Advisory Committee (NISPPAC); Meeting

AGENCY: Information Security Oversight Office (ISOO), National Archives and Records Administration (NARA).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: We are announcing an upcoming meeting of the National Industrial Security Program Policy Advisory Committee (NISPPAC).

DATES: The meeting will be on November 20, 2019, from 10:00 a.m. to 12:30 p.m.

ADDRESSES: National Archives and Records Administration; 700 Pennsylvania Avenue NW; McGowan Theater; Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Robert Tringali, Program Analyst, ISOO, by mail at National Archives and Records Administration; 700 Pennsylvania Avenue NW; Washington, DC 20408, by telephone at 202.357.5335, or by email at *robert.tringali@nara.gov*. Contact ISOO at *ISOO@nara.gov* and the NISPPAC at *NISPPAC@nara.gov*.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to discuss National Industrial Security Program policy matters.

This meeting will be open to the public, in accordance with the Federal Advisory Committee Act (5 U.S.C. app 2) and implementing regulations. However, due to space limitations and access procedures, you must submit the name and telephone number of individuals planning to attend to the Information Security Oversight Office (ISOO) no later than Friday, November 15, 2019. ISOO will provide additional instructions for accessing the meeting's location. Note: Please enter through the Constitution Ave. special events entrance.

Miranda J. Andreacchio,

Committee Management Officer.

[FR Doc. 2019–21705 Filed 10–4–19; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request; Monitoring Bank Secrecy Act Compliance

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice and request for comment.

SUMMARY: The National Credit Union Administration (NCUA), as part of a continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the following extension of a currently approved collection, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments should be received on or before December 6, 2019 to be assured consideration.

ADDRESSES: Interested persons are invited to submit written comments on the information collection to Mackie Malaka, National Credit Union Administration, 1775 Duke Street, Suite 6018, Alexandria, Virginia 22314; Fax No. 703–519–8579; or email at *PRAComments@NCUA.gov.*

FOR FURTHER INFORMATION CONTACT: Address requests for additional information to Mackie Malaka at the address above or telephone 703–548–2704.

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0108.

Title: Monitoring Bank Secrecy, 12 CFR Part § 748.2.

Type of Review: Extension of a previously approved collection.

Abstract: Section 748.2 of NCUA's regulations, directs credit unions to establish a Bank Secrecy Act (BSA) compliance program that maintains procedures designed to assure and monitor compliance with the requirement of 31 U.S.C., Chap. 53, Subchapter II (sec. 5301–5329), the Bank Secrecy Act (31 U.S.C. 5318(g)), and 31 CFR Chapter X (parts 1000–1099), Financial Crimes Enforcement Network, Department of the Treasury. Each federally insured credit union (FICU) must develop and provide for the continued administration of a BSA compliance program to assure and monitor compliance with the recordkeeping and recording requirements prescribed by the BSA. At a minimum, a compliance program shall provide for a system of internal controls, independent testing for compliance, designation of an individual responsible for coordinating and monitoring day-to-day compliance; and training. NCUA examiners review the program to determine whether the credit union's procedures comply with all BSA requirements.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated No. of Respondents: 5,308.

Estimated No. of Responses per Respondent: 1.

Estimated Total Annual Responses: 5,308.

Estimated Burden Hours per Response: 16.

Estimated Total Annual Burden Hours: 84,928.

Reason for change: Adjustment are being made to the number of respondents to accurately reflect the current number of federally insured credit unions (FICUs).

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) whether the collection of information is necessary for the proper execution of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the 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 the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on October 2, 2019.

Dated: October 2, 2019.

Mackie I. Malaka,

NCUA PRA Clearance Officer.

[FR Doc. 2019–21801 Filed 10–4–19; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request; Production of Non-Public Records and Testimony of Employees in Legal Proceedings (Touhy Request)

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice and request for comment.

SUMMARY: The National Credit Union Administration (NCUA), as part of a continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the following extension of a currently approved collection, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments should be received on or before November 6, 2019 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for NCUA, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) NCUA PRA Clearance Officer, 1775 Duke Street, Suite 5080, Alexandria, VA 22314, or email at *PRAComments@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by contacting Mackie Malaka at (703) 548–2704, emailing *PRAComments@ncua.gov,* or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0146.

Title: Production of Non-public Records and Testimony of Employees in Legal Proceedings (Touhy Request).

Type of Review: Extension of a currently approved collection.

Abstract: 12 CFR part 792, subpart C requires anyone requesting NCUA non-public records for use in legal proceedings, or similarly the testimony of NCUA personnel, to provide NCUA with information regarding the requester's grounds for the request. This process is also known as a ''Touhy Request''. The information collected will help NCUA decide whether to release non-public records or permit employees to testify in legal proceedings. NCUA regulations also require an entity or person in possession of NCUA records to notify the NCUA upon receipt of a subpoena for those records. The NCUA requires this notice to protect its records and, when necessary, intervene in litigation or file an objection to the disclosure of its confidential information in the appropriate court or tribunal.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 80.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on October 2, 2019.

Dated: October 2, 2019.

Mackie I. Malaka,

NCUA PRA Clearance Officer.

[FR Doc. 2019–21800 Filed 10–4–19; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit modification request.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated under the Antarctic Conservation Act of 1978. This is the required notice of a requested permit modification.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by November 6, 2019. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT: Nature McGinn, ACA Permit Officer, at the above address, 703–292–8030, or *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Description of Permit Modification Requested: The Foundation issued a permit (ACA 2019–001) to Ron Naveen, Oceanites Inc., on August 7, 2018. The issued permit allows the permit holder and agents to engage in take and harmful interference, as well as to enter Antarctic Specially Protected Areas (ASPAs), to continue data collections activities conducted to support the Antarctic Site Inventory. Visitor site surveys may include censusing penguin and seabird colonies throughout the Antarctic Peninsula. There is the potential for slight disturbance of the birds during surveying and censusing. This permit addresses the potential for infrequent, minimal take or harmful interference of the several penguin and other seabird species. While conducting visitor site surveys and censuses, the permit holder and agents may enter a number of ASPAs in the Antarctic Peninsula region. Now the permit holder proposes a modification to his permit to collect samples from adult gentoo penguins (*Pygoselis papua*) for genetic analysis in order to study range expansion, colonization of new areas, and gene flow. A research team member with significant bird handling experience would conduct and oversee activities that include capturing the penguins by hand or handheld net, temporary restraint, plucking of five feathers, and sampling blood from the foot or flipper. Penguins will only be captured as they return from foraging trips at sea to ensure that an adult penguin remains on or near the nest. The permit holder also proposes to opportunistically salvage muscle tissue samples from penguin chicks found dead. Feather, blood, and tissue samples would be transported to laboratories in the UK and USA for analysis.

Location: Antarctic Penisula region

Dates of Permitted Activities: December 1, 2019–August 31, 2023.

Erika N. Davis,

Program Specialist, Office of Polar Programs.

[FR Doc. 2019–21772 Filed 10–4–19; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit modification request received and permit issued.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated and permits issued under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of a requested permit modification and permit issued.

FOR FURTHER INFORMATION CONTACT: Nature McGinn, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–8224; email: *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: The National Science Foundation (NSF), as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR part 671), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection.

1. NSF issued a permit (ACA 2015–010) to Lockheed Martin Corporation on on October 31, 2014. The issued permit allows the permit holder to, as the contractor providing operational support for the United States Antarctic Program (USAP), be responsible for waste management activities for the USAP. A recent modification to this permit, dated November 7, 2016, allowed a change in permit holder from Lockheed Martin Corporation to Leidos Innovations Group (Leidos), 7400 South Tucson Way, Centennial, CO 80112.

Now the applicant proposes a permit modification to extend the expiration date of the permit from September 30, 2019 to October 31, 2019. The Environmental Officer has reviewed the modification request and has determined that the amendment is not a material change to the permit, and it will have a less than a minor or transitory impact.

Date of Permitted Activities: October 31, 2014–October 31, 2019.

The permit modification was issued on September 30, 2019.

Erika N. Davis,

Program Specialist, Office of Polar Programs.

[FR Doc. 2019–21773 Filed 10–4–19; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, October 22, 2019.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW, Washington, DC 20594.

STATUS: The one item is open to the public.

MATTERS TO BE CONSIDERED: 59567 Highway Accident Report—Pedestrian Bridge Collapse Over SW 8th Street, Miami, Florida, March 15, 2018.

CONTACT PERSON FOR MORE INFORMATION: Candi Bing at (202) 314–6403 or by email at *bingc@ntsb.gov.*

Media Information Contact: Chris O'Neil by email at *chris.oneil@ntsb.gov* or at (202) 314–6100

The press and public may enter the NTSB Conference Center one hour prior to the meeting for set up and seating.

Individuals requesting specific accommodations should contact Rochelle McCallister at (202) 314–6305 or by email at *Rochelle.McCallister@ntsb.gov* by Wednesday, October 16, 2019.

The public may view the meeting via a live or archived webcast by accessing a link under ''News & Events'' on the NTSB home page at *www.ntsb.gov.*

Schedule updates, including weather-related cancellations, are also available at *www.ntsb.gov.*

The National Transportation Safety Board is holding this meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b).

Dated: Friday October 3, 2019.

LaSean R. McCray,

Alternate Federal Register Liaison Officer.

[FR Doc. 2019–21918 Filed 10–3–19; 4:15 pm]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0067]

Information Collection: Reporting of Defects and Noncompliance

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Reporting of Defects and Noncompliance.''

DATES: Submit comments by November 6, 2019. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Submit comments directly to the OMB reviewer at: OMB Office of Information and Regulatory Affairs (3150–0090), Attn: Desk Officer for the Nuclear Regulatory Commission, 725 17th Street NW, Washington, DC 20503; email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0067 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0067. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2019–0067 on this website.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement and burden tables are available in ADAMS under ML19206A088 and ML19123A213.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Please include Docket ID NRC–2019–0067 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

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

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''10 CFR part 21, Reporting of Defects and Noncompliance.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on July 1, 2019, 84 FR 21259.

1. *The title of the information collection:* Reporting of Defects and Noncompliance.
2. *OMB approval number:* 3150–0035.
3. *Type of submission:* Extension.
4. *The form number if applicable:* Not applicable.
5. *How often the collection is required or requested:* On occasion. Defects and noncompliances are reportable as they occur.
6. *Who will be required or asked to respond:* Individual directors and responsible officers of firms constructing, owning, operating, or supplying the basic components of any facility or activity licensed under the Atomic Energy Act of 1954, as amended, or the Energy Reorganization Act of 1974, as amended, to report immediately to the NRC the discovery of defects in basic components or failures to comply that could create a substantial safety hazard.
7. *The estimated number of annual responses:* 800 (88 reporting responses + 357 third-party disclosure responses + 355 recordkeepers).
8. *The estimated number of annual respondents:* 355.
9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 32,083 (6,500 reporting hours + 25,215 hours recordkeeping + 368 hours third party disclosure).
10. *Abstract:* Part 21 of title 10 of the *Code of Federal Regulations* (10 CFR),

requires each individual, corporation, partnership, commercial grade dedicating entity, or other entity subject to the regulations in this part to adopt appropriate procedures to evaluate deviations and failures to comply to determine whether a defect exists that could result in a substantial safety hazard. Depending upon the outcome of the evaluation, a report of the defect must be submitted to the NRC. Reports submitted under 10 CFR part 21 are reviewed by the NRC staff to determine whether the reported defects or failures to comply in basic components at the NRC licensed facilities or activities are potentially generic safety problems. These reports have been the basis for the issuance of numerous NRC Generic Communications that have contributed to the improved safety of the nuclear industry. The records required to be maintained in accordance with 10 CFR part 21 are subject to inspection by the NRC to determine compliance with the subject regulation.

Dated at Rockville, Maryland, this 1st day of October, 2019.

For the Nuclear Regulatory Commission.

Kristen E. Benney,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–21743 Filed 10–4–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0136]

Information Collection: Requests to Federally Recognized Indian Tribes for Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on this proposed collection of information. The information collection is entitled, ''Requests to Federally Recognized Indian Tribes for Information.''

DATES: Submit comments by December 6, 2019. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0136. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T6–A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0136 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0136. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2019–0136 on this website.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML19113A097.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Please include Docket ID NRC–2019–0136 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

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

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* Requests to Federally Recognized Indian Tribes for Information.
2. *OMB approval number:* An OMB control number has not yet been assigned to this proposed information collection.
3. *Type of submission:* New.
4. *The form number, if applicable:* Not applicable.
5. *How often the collection is required or requested:* On occasion.
6. *Who will be required or asked to respond:* Federally recognized Indian Tribes.
7. *The estimated number of annual responses:* 600.
8. *The estimated number of annual respondents:* 40.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 4,800 (14,400 over the course of the three year clearance period).

10. *Abstract:* NRC actions and NRC-regulated activities may affect Indian Tribes and their current or ancestral Tribal lands. On January 9, 2017, the NRC published a Tribal Policy Statement (82 FR 2402). In its Tribal Policy Statement, the NRC indicted that it recognizes the Federal Trust Relationship with Indian Tribes and will uphold its Trust Responsibility to Indian Tribes. In its policy statement, the NRC indicated that it recognizes and is committed to a government-to-government relationship with Indian Tribes. The NRC also indicated that it will engage in timely consultations with Indian Tribes. The NRC is requesting OMB approval of a plan for a generic collection of information. The need and practicality of the collection can be evaluated, but the details of the specific individual collections will not be known until a later time. The information collected will include voluntary requests for information that would allow the NRC to more effectively involve Indian Tribes in the NRC's regulatory activities and to enable the NRC to plan the NRC's Tribal outreach and consultation activities.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the estimate of the burden of the information collection accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 1st day of October, 2019.

For the Nuclear Regulatory Commission.

Kristen E. Benney,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–21744 Filed 10–4–19; 8:45 am]

BILLING CODE 7590–01–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:* October 7, 2019.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 2, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express & Priority Mail Contract 100 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–1, CP2020–1.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–21798 Filed 10–4–19; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87188; File No. SR–CBOE–2019–066]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Move the Rules in Chapter XIII of the Currently Effective Rulebook, Which Governs Net Capital Requirements, to Proposed Chapter 11 of the Shell Structure for the Exchange's Rulebook

October 1, 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 September 25, 2019, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the 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.

[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).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to move the Rules in Chapter XIII of the currently effective Rulebook (''current Rulebook''), which governs net capital requirements, to proposed Chapter 11 of the shell structure for the Exchange's Rulebook that will become effective upon the migration of the Exchange's trading platform to the same system used by the Cboe Affiliated Exchanges (as defined below) (''shell Rulebook''). The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In 2016, the Exchange's parent company, Cboe Global Markets, Inc. (formerly named CBOE Holdings, Inc.) (''Cboe Global''), which is also the parent company of Cboe C2 Exchange, Inc. (''C2''), acquired Cboe EDGA Exchange, Inc. (''EDGA''), Cboe EDGX Exchange, Inc. (''EDGX'' or ''EDGX Options''), Cboe BZX Exchange, Inc. (''BZX'' or ''BZX Options''), and Cboe BYX Exchange, Inc. (''BYX'' and, together with Cboe Options, C2, EDGX, 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 trading platform to

the same system used by the Cboe Affiliated Exchanges, which the Exchange expects to complete on October 7, 2019. In connection with this technology migration, the Exchange has a shell Rulebook that resides alongside its current Rulebook, which shell Rulebook will contain the Rules that will be in place upon completion of the Cboe Options technology migration.

The Exchange proposes to relocate current Chapter XIII, which governs net capital requirements, to proposed Chapter 11 in the shell Rulebook. The Exchange notes that in addition to relocating the net capital requirement rules to proposed Chapter 11 in the shell Rulebook, the proposed rule change deletes the rules from the current Rulebook. The proposed rule change relocates the rules as follows:

Current rule	*Proposed rule*
Rule 13.1 (Minimum Requirements)	Rule 11.1 (Minimum Requirements).
Rule 13.2 (''Early Warning'' Notification Requirements)	Rule 11.2 (''Early Warning'' Notification Requirements).
Rule 13.3 (Power of President to Impose Restrictions)	Rule 11.3 (Power of President to Impose Restrictions).
Rule 13.4 (Joint Back Office Participants)	Rule 11.4 (Joint Back Office Participants).
Rule 13.5 (Customer Portfolio Margin Accounts)	Rule 11.5 (Customer Portfolio Margin Accounts).

The proposed changes are of a non-substantive nature and will not amend the relocated rules other than to update their rule numbers, conform paragraph structure and number/lettering format to that of the shell Rulebook, and make cross-reference changes to shell rules.

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.[5] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] 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)[7] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As stated, the proposed rule change makes no substantive changes to the rules. The proposed rule change is merely intended to relocate the Exchange's rules to the shell Rulebook and update their numbers, paragraph structure, including number and lettering format, and cross-references to conform to the shell Rulebook as a whole in anticipation of the technology migration on October 7, 2019. As such, the proposed rule change is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by improving the way the Exchange's Rulebook is organized, making it easier to read, and, particularly, helping market participants better understand the rules of the Exchange, which will also result in less burdensome and more efficient regulatory compliance.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended as a competitive change, but rather, seeks to make non-substantive rule changes in relocating the rules and updating cross-references to shell rules in anticipation of the October 7, 2019 technology migration. The Exchange also does not believe that the proposed rule change will impose any undue burden on competition because the relocated rule text is exactly the same as the Exchange's current rules, all of which have all been previously filed with the Commission.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[10] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Exchange believes that waiver of the operative delay is appropriate because, as the Exchange discussed above, its proposal does not make any substantive changes to the Exchange Rules, but merely relocates net capital rules to the shell Rulebook that the Exchange wishes to maintain post migration. Accordingly, its proposal is designed to preserve its net capital rules after October 7, 2019. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal does not raise any new or novel issues and makes only non-substantive changes to the rules. Therefore, the Commission hereby waives the

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *Id.*

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 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. Because this proposal does not make any substantive changes to the rules but only moves them into the shell Rulebook, the Commission designates a shorter time under Rule 19b–4(f)(6)(iii) by waiving the five business prefiling period for this proposal.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

operative delay and designates the proposal as operative upon filing.[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 necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2019–066 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–2019–066. 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–2019–066 and should be submitted on or before October 28, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Jill M. Peterson,

Assistant Secretary.

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[12] 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).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33654; File No. 812–15033]

Mutual of America Life Insurance Company, et al.

October 2, 2019.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of application for an order approving the substitution of certain securities pursuant to section 26(c) of the Investment Company Act of 1940, as amended (the ''Act'') and an order of exemption pursuant to section 17(b) of the Act from section 17(a) of the Act.

APPLICANTS: Mutual of America Life Insurance Company (''Mutual of America''), Wilton Reassurance Life Company of New York (''Wilton,'' and together with Mutual of America, the ''Companies''), Mutual of America Separate Account No. 2, Mutual of America Separate Account No. 3, American Separate Account No. 2, and American Separate Account No. 3 (the ''Separate Accounts,'' and together with the Companies, the ''Section 26 Applicants''); and Mutual of America Variable Insurance Portfolios, Inc. (''Investment Corporation II'') and Mutual of America Capital Management LLC (the ''Adviser,'' and collectively with Investment Corporation II and the Section 26 Applicants, the ''Section 17 Applicants'').

SUMMARY OF APPLICATION The Section 26 Applicants seek an order pursuant to section 26(c) of the Act, approving the substitution of shares issued by certain investment portfolios (the ''Existing Portfolios'') of Mutual of America Investment Corporation (''Investment Corporation I'') for shares of certain investment portfolios of the Investment Corporation II (the ''Replacement Portfolios''), held by the Separate Accounts to support certain variable annuity insurance contracts (''Non-Qualified Annuity Contracts'') and variable life insurance contracts (the ''Life Insurance Contracts'').[1] The Section 17 Applicants seek an order pursuant to section 17(b) of the Act exempting them from section 17(a) of the Act to the extent necessary to permit them to engage in certain in-kind transactions.

FILING DATES: The application was filed on May 15, 2019 and amended on August 20, 2019 and September 27, 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 Secretary of the Commission and serving the 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 October 28, 2019 and should be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090. Applicants: Mutual of America Life Insurance Company, 320 Park Avenue, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: Hae-Sung Lee, Senior Counsel, at (202) 551–7345, or Trace W. Rakestraw, Branch Chief at (202) 551–6825 (Division of

[1] The variable annuity contracts that are issued in connection with retirement plans or individual retirement annuities under the Code (other than the individual retirement annuities issued by American Separate Account No. 2) are referred to herein as the ''Qualified Annuity Contracts.'' The Non-Qualified Annuity Contracts, the Life Insurance Contracts, and the Qualified Annuity Contracts are collectively referred to herein as the ''Contracts.''

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.

Applicants' Representations

1. Mutual of America is a mutual life insurance company organized under the laws of the state of New York and is authorized to transact its business in 50 states and the District of Columbia.

2. Wilton is a life insurance company organized under New York law and is authorized to transact the business of life insurance, including annuities, in all 50 states, the Virgin Islands, and the District of Columbia. Wilton was a wholly-owned subsidiary of a holding company that was, in turn, 100% owned by Mutual of America. Mutual of America sold the holding company that owned Wilton but retained full authority and responsibility to take all actions in regard to American Separate Account No. 2 and American Separate Account No. 3, under an agreement with the holding company, and assumptively reinsured the variable contracts offered through those accounts.

3. Each Separate Account meets the definition of ''separate account,'' as defined in section 2(a)(37) of the Act and rule 0–1(e) thereunder. The Separate Accounts are registered with the Commission under the Act as unit investment trusts. The assets of the Separate Accounts support the Contracts and interests in the Separate Accounts offered through such Contracts. The Companies are the legal owners of the assets in their respective Separate Accounts. The Separate Accounts are segmented into subaccounts, and each subaccount invests in an underlying registered open-end management investment company or series thereof.

4. The Contracts are individual and group flexible premium variable annuity and variable life insurance contracts. Each Contract is registered under the Securities Act of 1933, as amended (the ''1933 Act'') on Form N–4 or Form N–6 (or, in the case of the variable life insurance contract supported by American Separate Account No. 3, on Form S–6). Each Contract has particular fees, charges, and investment options, as described in the Contracts' respective prospectuses.

5. As set forth under each Contract, as well as in the prospectus for each Contract, the Companies reserve the right to substitute shares of the underlying fund for shares of another underlying fund. The substitutions will be performed only for the Non-Qualified Annuity Contracts and the Life Insurance Contracts. The substitutions will not affect the Qualified Annuity Contracts.

6. The Companies, on their own behalf and on behalf of their Separate Accounts, propose to exercise their contractual rights to substitute underlying funds currently available under the Contracts for different underlying funds (''Substitutions'' or each, a ''Substitution''), as shown in the table below:

Substitution No.	Existing portfolio	Replacement portfolio
1	Equity Index Fund	Equity Index Portfolio.
2	All America Fund	All America Portfolio.
3	Small Cap Value Fund	Small Cap Value Portfolio.
4	Small Cap Growth Fund	Small Cap Growth Portfolio.
5	Small Cap Equity Index Fund	Small Cap Equity Index Portfolio.
6	Mid Cap Value Fund	Mid Cap Value Portfolio.
7	Mid-Cap Equity Index Fund	Mid-Cap Equity Index Portfolio.
8	Composite Fund	Moderate Allocation Portfolio.
9	International Fund	International Portfolio.
10	Money Market Fund	Money Market Portfolio.
11	Mid-Term Bond Fund	Mid-Term Bond Portfolio.
12	Bond Fund	Bond Portfolio.
13	Retirement Income Fund	Retirement Income Portfolio.
14	2010 Retirement Fund	2010 Retirement Portfolio.
15	2015 Retirement Fund	2015 Retirement Portfolio.
16	2020 Retirement Fund	2020 Retirement Portfolio.
17	2025 Retirement Fund	2025 Retirement Portfolio.
18	2030 Retirement Fund	2030 Retirement Portfolio.
19	2035 Retirement Fund	2035 Retirement Portfolio.
20	2040 Retirement Fund	2040 Retirement Portfolio.
21	2045 Retirement Fund	2045 Retirement Portfolio.
22	2050 Retirement Fund	2050 Retirement Portfolio.
23	2055 Retirement Fund	2055 Retirement Portfolio.
24	2060 Retirement Fund	2060 Retirement Portfolio.
25	Conservative Allocation Fund	Conservative Allocation Portfolio.
26	Moderate Allocation Fund	Moderate Allocation Portfolio.
27	Aggressive Allocation Fund	Aggressive Allocation Portfolio.

7. The Existing Portfolios are series of Investment Corporation I, a Maryland corporation registered as an open-end management investment company under the Act (File No. 811–05084) and whose shares are registered under the 1933 Act (File No. 033–06486). Investment Corporation I issues separate classes (or series) of shares, each of which represents a separate portfolio of investments. There are currently 27 series of Investment Corporation I; they are the Existing Portfolios. Investment Corporation I intends to begin offering shares of its series directly to the general public through the retail market.

8. The Replacement Portfolios are series of Investment Corporation II, a Maryland corporation. On June 13, 2019, Investment Corporation II filed a new registration statement on Form N–1A to register as an open-end management investment company under the Act (File No. 811–23449) and to register shares of the Replacement Portfolios under the 1933 Act (File No. 333–232095). There will be 26 series of

Investment Corporation II; they are the Replacement Portfolios. Investment Corporation II was formed for the purpose of performing the Substitutions. However, new series of Investment Corporation II may be established in the future, and the series of Investment Corporation II may be made available as investment allocation options under variable insurance contracts of the Companies other than the Non-Qualified Annuity Contracts and the Life Insurance Contracts.

9. The Adviser serves as the investment adviser for the Existing Portfolios and the Replacement Portfolios. The Adviser is a Delaware limited liability company that is registered as an investment adviser under the Investment Advisers Act of 1940. A sub-adviser has not been engaged to manage any of the Portfolios.

10. Applicants state that the primary purpose of the Substitutions is to preserve the favorable tax treatment of the Non-Qualified Annuity Contracts and the Life Insurance Contracts that are currently supported by the Existing Portfolios. With exception of Substitution No. 8, each Existing Portfolio and its corresponding Replacement Portfolio have identical investment objectives, strategies, and risks and substantially identical fee structures (with different expense ratios due to differences in net assets). With respect to Substitution No. 8, the Existing Portfolio and its corresponding Replacement Portfolio have substantially similar objectives, strategies, and risks, and the Replacement Portfolio has a lower expense ratio. The Portfolios are advised by the same Adviser and share a common board of directors. As such, the Substitutions will permit owners of the Non-Qualified Annuity Contracts (''Non-Qualified Annuity Contract Owners'') and owners of the Life Insurance Contracts (''Life Insurance Contract Owners'') to maintain the favorable tax treatment of their Non-Qualified Annuity and Life Insurance Contracts and continue their investments in substantially identical underlying funds (or a substantially similar underlying fund with respect to Substitution No. 8).

11. In order to preserve that favorable tax treatment, Section 26 Applicants propose to reallocate contract values attributable to the Non-Qualified Annuity and Life Insurance Contracts from the Existing Portfolios to the Replacement Portfolios. Applicants represent that the Substitutions will preserve the favorable tax treatment of the Non-Qualified Annuity and Life Insurance Contracts because the Replacement Portfolios will be offered only under variable annuity and life insurance contracts. The Replacement Portfolios will not be sold directly to the general public through the retail market.

12. Mutual of America will cause the Adviser to enter into a written contract with Investment Corporation II whereby, for a period of two years following the date of substitution for each Substitution (the ''Substitution Date''), the Adviser will, at least as frequently as the last business day of each fiscal quarter, reimburse the expenses of the Replacement Portfolio to the extent that the net annual operating expenses of the Replacement Portfolio (after taking into account any other fee waivers or expense reimbursements) for such period exceed, on an annualized basis, the net annual operating expenses of the Existing Portfolio for the most recent fiscal year preceding the date of the application (the ''Expense Caps''). Any amounts waived or reimbursed by the Adviser will not be subject to recoupment rights. Any Expense Cap that applies to a Replacement Portfolio as a condition of this application is separate and apart from any other contractual expense reimbursement agreement between Investment Corporation II and the Adviser. To the extent that an Expense Cap caps a Replacement Portfolio's net annual operating expenses at a lower percentage of net assets than any other contractual expense reimbursement agreement between Investment Corporation II and the Adviser, such other contractual expense reimbursement agreement will have no practical impact on the Replacement Portfolio's net annual operating expenses due to the operation of the Expense Cap. In addition, for each Substitution, the Section 26 Applicants will not increase the Contract fees and charges that would otherwise be assessed under the terms of the Contracts for the Non-Qualified Annuity and Life Insurance Contract Owners for a period of at least two years following the Substitution Date.

13. Applicants represent that as of the Substitution Date, the Separate Accounts will redeem shares of the applicable Existing Portfolios for cash and/or in-kind. Redemption requests and purchase orders will be placed simultaneously so that the Non-Qualified Annuity and Life Insurance Contract values will remain fully invested at all times.

14. Each Substitution will be effected at the relative net asset values of the respective shares of the Replacement Portfolios in conformity with section 22(c) of the Act and rule 22c–1 thereunder without the imposition of any transfer or similar charges by the Section 26 Applicants. The Substitutions will be effected without change in the amount or value of any Non-Qualified Annuity and Life Insurance Contracts.[2]

15. Non-Qualified Annuity and Life Insurance Contract Owners will not incur any fees or charges as a result of the Substitutions. The obligations of the Section 26 Applicants, and the rights of the Non-Qualified Annuity and Life Insurance Contract Owners, under the Contracts will not be altered in any way. The Companies and/or their affiliates (other than Investment Corporation II) will pay all expenses and transaction costs of the Substitutions, including legal and accounting expenses, any applicable brokerage expenses, and other fees and expenses. No fees or charges will be paid by the Non-Qualified Annuity and Life Insurance Contract Owners to effect the Substitutions. The Substitutions will not cause the Contract fees and charges currently being paid by Non-Qualified Annuity and Life Insurance Contract Owners to be greater after any Substitution than before the Substitution. In addition, the Substitutions will in no way alter the tax treatment of affected Contract owners in connection with their Contracts, and no tax liability will arise for Contract owners as a result of the Substitutions.

16. From the date of the Pre-Substitution Notice (defined below) through 30 days following the Substitution Date, Non-Qualified Annuity and Life Insurance Contract Owners may make at least one transfer of Contract value from the subaccount investing in an Existing Portfolio (before the Substitution) or the Replacement Portfolio (after the Substitution) to any other available subaccount under the Contract without charge and without imposing any transfer limitations. Further, on a Substitution Date, values

[2] The Section 26 Applicants note that, because the Substitutions will occur at relative net asset value, and the fees and charges under the Non-Qualified Annuity and Life Insurance Contracts will not change as a result of the Substitutions, the benefits offered by the guarantees under the Contracts will be the same immediately before and after the Substitutions. What effect the Substitutions may have on the value of the benefits offered by the Contract guarantees would depend, among other things, on the relative future performance of each Existing Portfolio and Replacement Portfolio, which the Section 26 Applicants cannot predict. Nevertheless, the Section 26 Applicants note that at the time of the Substitutions, the Contracts will offer a comparable variety of investment options with as broad a range of risk/return characteristics.

under Non-Qualified Annuity and Life Insurance Contracts attributable to investments in the applicable Existing Portfolio will be transferred to the corresponding Replacement Portfolio without charge and without being subject to any transfer limitations. Moreover, for each Substitution, except with respect to frequent trading restrictions described in the Contracts' prospectuses, the Companies will not exercise any rights reserved under their policies to impose restrictions on transfers between the subaccounts for a period beginning at least 30 days before the Substitution Date through at least 30 days following the Substitution Date.

17. For each Substitution, at least 30 days prior to the Substitution Date, Non-Qualified Annuity and Life Insurance Contract Owners will be notified via prospectus supplements (i) that the Section 26 Applicants received or expect to receive Commission approval of the Substitution and (ii) of the anticipated Substitution Date (the ''Pre-Substitution Notice''). Pre-Substitution Notices sent to Non-Qualified Annuity and Life Insurance Contract Owners (including a subset of contract owners that own inactive contracts (''Inactive Contract Owners'')) will be filed with the Commission pursuant to rule 497(e) under the 1933 Act. The Pre-Substitution Notice will also advise Non-Qualified Annuity and Life Insurance Contract Owners of their pre- and post-Substitution rights. For each Substitution, the Section 26 Applicants will also deliver to affected Non-Qualified Annuity and Life Insurance Contract Owners (including Inactive Contract Owners), at least 30 days before the Substitution Date, a prospectus for the Replacement Portfolio.

18. In addition, within five business days after the Substitution Date, Non-Qualified Annuity and Life Insurance Contract Owners (including Inactive Contract Owners) whose assets were allocated to the Replacement Portfolio as part of the Substitution will be sent a written notice (a ''Confirmation'') informing them that the Substitution was carried out as previously notified. The Confirmation will also restate the information set forth in the Pre-Substitution Notice. The Confirmation will also reflect the values of the Non-Qualified Annuity or Life Insurance Contract Owner's positions in the Existing Portfolio before the Substitution and the Replacement Portfolio after the Substitution.

Legal Analysis

1. The Section 26 Applicants request that the Commission issue an order pursuant to section 26(c) of the Act approving the Substitutions. Section 26(c) prohibits any depositor or trustee of a unit investment trust that invests exclusively in the securities of a single issuer from substituting the securities of another issuer without the approval of the Commission. Section 26(c) provides that such approval shall be granted by order from the Commission if the evidence establishes that the substitution is consistent with the protection of investors and the purposes of the Act.

2. The Section 26 Applicants submit that the Substitutions meet the standards set forth in section 26(c) and that, if implemented, the Substitutions would not raise any of the concerns that Congress intended to address when the Act was amended to include this provision. Applicants state that they are seeking the Substitutions to preserve the favorable tax treatment of the Non-Qualified Annuity Contracts and the Life Insurance Contracts. A key feature of annuity and life insurance contracts is the deferral of federal income taxes on the accumulated earnings within such contracts if fund shares supporting such contracts are not offered directly to the general public. The Existing Portfolios are presently sold in a manner that facilitates the deferral of federal income taxes on the accumulated earnings under the Non-Qualified Annuity and Life Insurance Contracts. However, in an effort to expand the markets to which the Existing Portfolios are offered, Investment Corporation I intends to begin offering shares of the Existing Portfolios directly to the general public through the retail market. While this initiative will generally benefit the Existing Portfolios, and will not affect the tax treatment of the Qualified Annuity Contracts, it would result in the Non-Qualified Annuity and Life Insurance Contracts no longer receiving tax deferral unless the Substitutions are performed.

3. Companies have reserved the right under the Contracts to substitute shares of another underlying fund for one of the current funds offered as an investment option under the Contracts. The Contracts and the Contracts' prospectuses disclose this right.

4. The Section 26 Applicants submit that the Substitutions are not of the type that section 26 was designed to prevent because they will not result in costly forced redemptions, nor will they affect any other aspects of the Contracts. In the current situation, Contract owners are contractually provided investment discretion during the accumulation phase of the Contracts to allocate and reallocate their Contract values among the investment options available under the Contracts. Accordingly, after the Substitutions, each Non-Qualified Annuity and Life Insurance Contract Owner may exercise his or her own judgment as to the most appropriate investment alternative available under the Contract. Moreover, for each Substitution, the Section 26 Applicants will offer Non-Qualified Annuity and Life Insurance Contract Owners the opportunity to transfer amounts out of the affected subaccounts which, as with all transfers under the Contracts, will be without any cost or other penalty (other than those necessary to implement policies and procedures designed to detect and deter disruptive transfers) for a period beginning on the date of the Pre-Substitution Notice (which supplement will be delivered to the Non-Qualified Annuity and Life Insurance Contract Owners at least 30 days before the Substitution Date) and ending no earlier than 30 days after the Substitution Date. The Substitutions, therefore, will not result in the type of forced redemption that section 26(c) was designed to prevent.

5. The Substitutions are also unlike the type of substitution that section 26(c) was designed to prevent in that the Substitutions have no impact on other aspects of the Contracts. Specifically, the Substitutions will not affect the type of benefits offered by the Companies under the Contracts, or numerous other rights and privileges associated with the Contracts.

6. The Section 17 Applicants request an order under section 17(b) exempting them from the provisions of section 17(a) to the extent necessary to permit the Section 17 Applicants to carry out some or all of the Substitutions. The Section 17 Applicants state that because the Substitutions may be effected, in whole or in part, by means of in-kind redemptions and purchases, the Substitutions may be deemed to involve one or more purchases or sales of securities or property between affiliated persons.

7. Section 17(a)(1) of the Act, in relevant part, prohibits any affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, from knowingly selling any security or other property to that company. Section 17(a)(2) of the Act generally prohibits the persons described above, acting as principals, from knowingly purchasing any security or other property from the registered investment company.

8. The Section 17 Applicants state that the proposed transactions may involve a transfer of portfolio securities by the Existing Portfolios to the Separate

Accounts. Immediately thereafter, the Separate Accounts would purchase shares of the Replacement Portfolios with the portfolio securities received from the Existing Portfolios. Accordingly, the Section 17 Applicants provide that to the extent that the Companies, the Separate Accounts, the Adviser, Investment Corporation II, or the Replacement Portfolios are deemed to be affiliated persons of one another under section 2(a)(3) or section 2(a)(9) of the Act, it is conceivable that this aspect of the Substitutions could be viewed as being prohibited by section 17(a). Accordingly, the Section 17 Applicants have determined to seek relief from section 17(a).

9. The Section 17 Applicants submit that the terms of the proposed in-kind purchases of shares of the Replacement Portfolios by the Separate Accounts, including the consideration to be paid and received, as described in the application, are reasonable and fair and do not involve overreaching on the part of any person concerned. The Section 17 Applicants also submit that the terms of the proposed in-kind transactions, including the consideration to be paid by each Existing Portfolio and received by each Replacement Portfolio involved, are reasonable, fair, and do not involve overreaching principally because the transactions will conform with all but one of the conditions enumerated in rule 17a–7 under the Act.

10. The proposed transactions will take place at relative net asset value in conformity with the requirements of section 22(c) of the Act and rule 22c–1 thereunder without the imposition of any transfer or similar charges by the Section 26 Applicants. The Substitutions will be effected without change in the amount or value of any Non-Qualified Annuity Contract or any Life Insurance Contract. The Substitutions will in no way alter the tax treatment of Non-Qualified Annuity and Life Insurance Contract Owners in connection with their Contracts, and no tax liability will arise for Non-Qualified Annuity and Life Insurance Contract Owners as a result of the Substitutions. The fees and charges under the Non-Qualified Annuity and Life Insurance Contracts will not increase because of the Substitutions. Even though the Company, the Separate Accounts, the Adviser, Investment Corporation II, and the Replacement Portfolios may not rely on rule 17a–7, the Section 17 Applicants believe that the rule's conditions outline the type of safeguards that result in transactions that are fair and reasonable to registered investment company participants and preclude overreaching in connection with an investment company by its affiliated persons.

11. The Section 17 Applicants also submit that the proposed in-kind purchases by the Separate Accounts are consistent with the investment policies and restrictions of the Section 17 Applicants and the Replacement Portfolio. Finally, the Section 17 Applicants submit that the Substitutions are consistent with the general purposes of the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The Substitutions will not be effected unless the Companies determine that: (i) The Contracts allow the substitution of shares of registered open-end investment companies in the manner contemplated by the application; (ii) the Substitutions can be consummated as described in the application under applicable insurance laws; and (iii) any regulatory requirements in each jurisdiction where the Contracts are qualified for sale have been complied with to the extent necessary to complete the Substitutions.

2. The Companies or an affiliate thereof (other than Investment Corporation II) will pay all expenses and transaction costs of the Substitutions, including legal and accounting expenses, any applicable brokerage expenses and other fees and expenses. No fees or charges will be paid by Non-Qualified Annuity and Life Insurance Contract Owners to effect the Substitutions. The Substitutions will not cause the Contract fees and charges currently being paid by Non-Qualified Annuity and Life Insurance Contract Owners to be greater after the Substitution than before the Substitution.

3. The Substitutions will be effected at the relative net asset values of the respective shares of the Replacement Portfolios in conformity with section 22(c) of the Act and rule 22c–1 thereunder without the imposition of any transfer or similar charges by the Applicants. The Substitutions will be effected without change in the amount or value of any Non-Qualified Annuity Contract or Life Insurance Contract.

4. The Substitutions will in no way alter the tax treatment of Non-Qualified Annuity and Life Insurance Contract Owners in connection with their Contracts, and no tax liability will arise for Non-Qualified Annuity and Life Insurance Contract Owners as a result of the Substitutions.

5. The obligations of the Section 26 Applicants, and the rights of the Non-Qualified Annuity and Life Insurance Contract Owners, under the Non-Qualified Annuity and Life Insurance Contracts will not be altered in any way.

6. For each Substitution, Non-Qualified Annuity and Life Insurance Contract Owners will be permitted to transfer Contract value from the subaccount investing in the Existing Portfolio (before the Substitution Date) or the Replacement Portfolio (after the Substitution Date) to any other available subaccount without charge for a period beginning at least 30 days before the Substitution Date through at least 30 days following the Substitution Date. Except with respect to any frequent trading restrictions described in the relevant prospectus, the Applicants will not exercise any rights reserved under the Contracts to impose restrictions on transfers between the subaccounts, including limitations on the future number of transfers, for a period beginning at least 30 days before the Substitution Date through at least 30 days following the Substitution Date.

7. For each Substitution, all Non-Qualified Annuity and Life Insurance Contract Owners will be notified via the Pre-Substitution Notice, at least 30 days before the Substitution Date, about: (i) The intended Substitution of the Existing Portfolio with the Replacement Portfolio; (ii) the intended Substitution Date; and (iii) information with respect to transfers as set forth in Condition 6 above. In addition, for each Substitution, the Section 26 Applicants will also deliver to Non-Qualified Annuity and Life Insurance Contract Owners, at least 30 days before the Substitution Date, a prospectus for the applicable Replacement Portfolio.

8. For each Substitution, the Section 26 Applicants will deliver to each Non-Qualified Annuity and Life Insurance Contract Owner within five business days after the Substitution Date, a written confirmation which will include: (i) A confirmation that the Substitution was carried out as previously notified; (ii) a restatement of the information set forth in the Pre-Substitution Notice; and (iii) values of the Non-Qualified Annuity and Life Insurance Contract Owner's positions in the Existing Portfolio before the Substitution and the Replacement Portfolio after the Substitution.

9. Mutual of America will cause the Adviser, as the investment adviser of the Replacement Portfolios, to enter into a written contract with Investment Corporation II whereby, for a period of two years following the Substitution Date for each Substitution, the Adviser will, at least as frequently as the last business day of each fiscal quarter,

reimburse the expenses of the Replacement Portfolio to the extent that the net annual operating expenses of the Replacement Portfolio (*i.e.,* after taking into account any other fee waivers or expense reimbursements) for such period exceed, on an annualized basis, the net annual operating expenses of the Existing Portfolio for the most recent fiscal year preceding the date of the application. Any amounts waived or reimbursed by the Adviser will not be subject to recoupment rights. In addition, for each Substitution, the Section 26 Applicants will not increase the Contract fees and charges that would otherwise be assessed under the terms of the Contracts for the Non-Qualified Annuity and Life Insurance Contract Owners for a period of at least two years following the Substitution Date.

For the Commission, by the Division of Investment Management, under delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–21811 Filed 10–4–19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87187; File No. SR–CBOE–2019–072]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Make Minor Updates to and Relocate Chapter XIX, Which Governs the Hearings and Review Process for Persons Aggrieved by Exchange Action, of the Currently Effective Rulebook, to Proposed Chapter 15 of the Shell Structure for the Exchange's Rulebook

October 1, 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 September 27, 2019, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the 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 Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to make minor updates to and relocate Chapter XIX, which governs the hearings and review process for persons aggrieved by Exchange action, of the currently effective Rulebook (''current Rulebook'') to proposed Chapter 15 of the shell structure for the Exchange's Rulebook that will become effective upon the migration of the Exchange's trading platform to the same system used by the Cboe Affiliated Exchanges (as defined below) (''shell Rulebook''). The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In 2016, the Exchange's parent company, Cboe Global Markets, Inc. (formerly named CBOE Holdings, Inc.) (''Cboe Global''), which is also the parent company of Cboe C2 Exchange, Inc. (''C2''), acquired Cboe EDGA Exchange, Inc. (''EDGA''), Cboe EDGX Exchange, Inc. (''EDGX'' or ''EDGX Options''), Cboe BZX Exchange, Inc. (''BZX'' or ''BZX Options''), and Cboe BYX Exchange, Inc. (''BYX'' and, together with Cboe Options, C2, EDGX, 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 trading platform to the same system used by the Cboe Affiliated Exchanges, which the Exchange expects to complete on October 7, 2019. In connection with this technology migration, the Exchange has a shell Rulebook that resides alongside its current Rulebook, which shell Rulebook will contain the Rules that will be in place upon completion of the Cboe Options technology migration.

The Exchange proposes to relocate and reorganize current Chapter XIX, which governs the hearings and review process for persons aggrieved by Exchange action, into proposed Chapter 15 in the shell Rulebook. The Exchange notes that in addition to relocating and reorganizing the current rules, the proposed rule change deletes these rules from the current Rulebook. The proposed rule change relocates and, where applicable, reorganizes the rules as follows:

Shell rule	Current rule
15.1 Scope	19.1 Scope, which incorporates 19.1.01 into body of rule.
15.2 Submission of Application to Exchange	19.2 Submission of Application to Exchange.
15.3 Procedure Following Applications for Hearing	19.3 Procedure Following Applications for Hearing.
15.4 Hearing	19.4 Hearing, which incorporates 19.4.01 into body of shell 15.4(a).
15.5 Review	19.5 Review.
15.6 Miscellaneous Provisions	19.6 Miscellaneous Provisions.
15.7 Requests for Verification of Fees and Charges:	
15.7(a)	19.50 Scope of Part B.
15.7(b)	19.51 Definitions.

[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).

Shell rule	Current rule
15.7(c)–(f)	19.52 Requests for Verification.

The proposed rule changes make only non-substantive changes to the rules in order to update and/or headings that better flow with the relocated and reorganized rules, update cross-references to other rules and chapters that will be implemented upon migration, update certain technical text formatting that will be used in the Rules upon migration (*e.g.,* using words for numbers below 10 in the rule text and numerals for numbers above 10 in the rule text), incorporate defined terms, and reformat the paragraph lettering and numbering.

Additionally, the proposed rule change deletes ''Part B'' from the current rule, as there is no Part A, and combines all rule provisions in current Part B into a single rule, as they all relate to a procedure that may be used instead of the procedure set forth in current Rules 19.1 through 19.6 (proposed Rules 15.1 through 15.6) if permitted by the Rules. The Exchange believes this reorganization simplifies these Rules and eliminates potential confusion given the lack of a Part A in this Chapter.

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.[5] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] 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)[7] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed rule change does not make any substantive changes to the rules and is merely intended to consolidate and reorganize the Exchange's Rules in anticipation of the technology migration on October 7, 2019. The Exchange believes that the non-substantive proposed changes, which update technical text and formatting (*e.g.,* paragraph headings and number-related references), update rule cross-references, and consolidate and reorganize rules and rule paragraphs and/or Interpretations and Policies, will foster cooperation and coordination with those facilitating transactions in securities and remove impediments to and perfect the mechanism of a free and open market and national market system by simplifying the Exchange Rules and Rulebook as a whole, and making its Rules easier to follow and understand, which will also result in less burdensome and more efficient regulatory compliance.

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 reiterates that the proposed rule change is being proposed in the context of a technology migration of the Cboe Affiliated Exchanges, and not as a competitive filing. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition because it does not make any substantive changes to the current Exchange Rules. The proposed rule change merely intends to provide consolidated rules upon migration and is consistent with the technical text and formatting in the shell Rulebook that will be in place come October 7, 2019. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition because the proposed rules are the same as the Exchange's current rules, all of which have all been previously filed with the Commission.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[10] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Exchange believes that waiver of the operative delay is appropriate because, as the Exchange discussed above, its proposal does not make any substantive changes to the Exchange Rules, and only consolidates and reorganizes the rules in Chapter XIX, which governs the hearings and review process for persons aggrieved by Exchange action, and moves them to the shell Rulebook that the Exchange wishes to maintain post migration. Accordingly, its proposal is designed to preserve its hearings and review process rules after October 7, 2019. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal does not raise any new or novel issues

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *Id.*

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 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 that requirement.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

and makes only non-substantive changes to the rules. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.[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 necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2019–072 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–2019–072. 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–2019–072 and should be submitted on or before October 28, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–21730 Filed 10–4–19; 8:45 am]

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[12] 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).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87181; File No. SR–ISE–2019–23]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Submission of Quotes and Orders

October 1, 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 September 17, 2019, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 3 at Section 4, ''Acceptance of Quotes and Orders,'' adopt a new Section 5, ''Entry and Display of Single-Leg Orders,'' Section 7, ''Types of Order,'' at Supplementary Material .03 and Section 22 titled ''Limitations on Orders.'' The Exchange proposes to amend Options 3, Section 15, ''Simple Order Risk Protections'' and Supplementary Material of Options 5, Section 2, ''Order Protection

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 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 Options 3 at Section 4, ''Acceptance of Quotes and Orders,'' adopt a new Section 5, ''Entry and Display of Single-Leg Orders,'' Section 7, ''Types of Order,'' at Supplementary Material .03 and Section 22 titled ''Limitations on Orders.'' The Exchange proposes to amend Options 3, Section 15, ''Simple Order Risk Protections'' and Supplementary Material of Options 5, Section 2, ''Order Protection.'' Each rule change will be discussed in greater detail below.

Options 3, Section 4, Acceptance of Orders and Quotes

Currently, Options 3, Section 4 is titled ''Acceptance of Quotes or Orders.'' The Exchange proposes to retitle Options 3, Section 4 as ''Entry and Display of Quotes.'' The Exchange proposes to add a new section (b) to Options 3, Section 4 to describe the current requirements and conditions for submitting quotes. These requirements reflect the current System operation today. The Exchange proposes to memorialize the various requirements for the submission of quotes into the System for greater transparency. The Exchange proposes to provide at new Options 3, Section 4(b), ''Quotes are

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

subject to the following requirements and conditions:''. The Exchange proposes to add at Options 3, Section 4(b)(1) that ''Market Makers may generate and submit option quotations.'' Current Options 2, Section 5 makes clear that Market Makers may submit quotes.[4] The Exchange proposes to create a list of rules related to quote submission within this rule for ease of reference. The Exchange proposes to provide at proposed new Options 3, Section 4(b)(2) that ''The System shall time-stamp a quote which shall determine the time ranking of the quote for purposes of processing the quote.'' The Exchange notes that all quotes today are time-stamped for purposes of processing quotes. Proposed Options 3, Section 4(b)(3) states that ''Market Makers may enter bids and/or offers in the form of a two-sided quote. Only one quote may be submitted at a time for an option series.'' The Exchange believes that this information will provide Market Makers with information on submitting a quote. The Exchange notes that bid or offer may be a ''0,'' however a price is required to be entered for both the bid and offer to be entered into the System. Further, the Exchange proposes at Options 3, Section 4(b)(4) to provide clarity for entering quotes and proposes to specify, ''The System accepts quotes for the Opening Process as specified in Options 3, Section 8.'' [5] The Exchange believes that this information will bring greater transparency to the Rulebook with respect to limitations for submitting quotations into the System.

The Exchange proposes a provision regarding firm quote within proposed Options 3, Section 4(b)(5):

Firm Quote. Where quotes in options on another market or markets are subject to relief from the firm quote requirement set forth in the Rule 602 of Regulation NMS under the Exchange Act orders and quotes will receive an automatic execution at or better than the NBBO based on the best bid or offer in markets whose quotes are not subject to such relief. Such determination may be made by way of notification from another market that its quotes are not firm or are unreliable; administrative message from the Option Price Reporting Authority (''OPRA''); quotes received from another market designated as ''not firm'' using the appropriate indicator; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are not firm. The Exchange shall maintain a record of each instance in which another exchange's quotes are excluded from the Exchange's calculation of NBBO, and shall notify such other exchange that its quotes have been so excluded. Where quotes in options on another market or markets previously subject to relief from the firm quote requirement set forth in the Quote Rule are no longer subject to such relief, such quotations will be included in the calculation of NBBO for such options. Such determination may be made by way of notification from another market that its quotes are firm; administrative message from OPRA; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are firm.

ISE's Options 2, Section 5(d) describes Firm Quote for purposes of Market Maker quote submission. The Exchange proposes to memorialize within its Rules the requirement for the dissemination of quotations pursuant to Reg NMS.[6] The Exchange is proposing to add the above rule text to provide context as to this restriction for submitting quotes. The Exchange proposes to make clear the manner in which quote relief will occur. Specifically, this proposed rule text indicates the manner in which a determination for quote relief is made. Further, the rule notes the Exchange shall maintain a record of each instance in which another exchange's quotes are excluded from the Exchange's calculation of NBBO, and shall notify such other exchange that its quotes have been so excluded. Also, when relief is no longer available, such quotations will be included in the calculation of NBBO for such options. The Exchange notes how the determination is made that relief is no longer available. The proposed rule text adds greater context to the manner in which Firm Quote relief is applied. This rule text represents the current practice.

Similarly, the Exchange proposes to provide the following at proposed new Options 3, Section 4(b)(6):

Trade-Through Compliance and Locked or Crossed Markets. A quote will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. If, at the time of entry, a quote would cause a locked or crossed market violation or would cause a trade-through violation, it will either re-priced and displayed at one minimum price variance above (for offers) or below (for bids) the national best price or immediately cancelled, as configured by the Member.

Today, quotations may not be executed against at prices that trade-through an away market as provided for in the Options Order Protection and Locked/Crossed Market Plan which is also described within Options 5. Also, quotations may not lock or cross an away market. By stating this limitation in the rule, Market Makers will have greater clarity as to this limitation. Further, the Exchange is making clear that a quote that would cause a locked or crossed market violation or would cause a trade-through violation will be re-priced. The Exchange would display the quote at one minimum price variation (''MPV'') above (for offers) or below (for bids) the national best price or the quote would be immediately cancelled if requested by the Member. Repricing quotes is consistent with the Act because the Exchange is not permitted to lock or cross an away market's quote or order. The Exchange reprices the quotes one MPV inferior to cause the displayed price to reflect the available market on the Exchange.

Finally, the Exchange proposes at Options 3, Section 4(b)(7) to provide, ''Quotes submitted to the System are subject to the following: Minimum increments provided for in Options 3, Section 3 and risk protections provided for in Options 3, Section 15.'' If the Market Maker does not submit a quotation compliant with Options 3, Section 3, the quote will not be accepted by the System. The Exchange is noting herein the manner in which a quote may be rejected by the System to provide market participants with expectations as to the interplay among the various Exchange Rules. Specifically, if the Market Maker does not submit a quotation compliant with Options 3, Section 3, the quote will not be accepted by the System because market participants are required to abide by Options 3, Section 3 which describes the increments with which options series are to be quoted. Options 3, Section 15 provides a list of all protections applicable to quotes that may be rejected. The Exchange believes that this rule will provide Members with requirements and conditions for submitting quotations and provide transparency as to limitations that cause a quote to be rejected.

The Exchange proposes to provide at Options 3, Section 4(c), ''Quotes will be displayed in the System as described in Options 3, Section 23.'' Options 3, Section 23, titled ''Data Fees and Trade Information'' provides for the available feeds that Members may access on the Exchange. This list represents the available data feeds and the content of those data feeds which are offered today by the Exchange.

As discussed in more detail below, the Exchange proposes to relocate

[4] Options 2, Section 5(a) provides, ''Options Classes. A quotation only may be entered by a Market Maker, and only in the options classes to which the market maker is appointed under Options 2, Section 3.'' Options 2, Section 5(d) provides for Firm Quotes.

[5] Options 3, Section 8(c) provides, ''Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 a.m. Eastern Time are included in the Opening Process. Orders entered at any time before an option series opens are included in the Opening Process.''

[6] 17 CFR 242.602.

current Options 3, Section 4(b)[7] to new Options 3, Section 5(a)(5) as described below in greater detail.

The amendment to Options 3, Section 4 to create a list of all the requirements and conditions for submitting quotes on the Exchange within one rule is consistent with the Act because it will provide greater transparency to market participants of the applicable requirements. Further, this proposal will make the current rule clear and understandable for market participants thereby protecting investors and the general public. The Exchange notes that while some of these requirements appear in other rules, for ease of reference the requirements are located within a single rule with this proposal. The proposal reflects the Exchange's current practice with respect to quoting requirements. This proposal will conform this Rule to other Nasdaq affiliated markets filing similar rules.[8] The Exchange's proposal is intended to provide greater information with respect to Firm Quote within new Options 3, Section 4(b)(5) and regarding trade-through and locked and crossed markets Options 3, Section 4(b)(6). The addition rule text is consistent with the Act because the Exchange is adding detail regarding the method in which orders which are firm or locked and crossed will be handled in the System. The notifications for Firm Quote are made clear with the proposed rule text. The Exchange believes that it is consistent with the Act to specify when quotes are firm and the handling of such quotes by the System for the protection of investors and the general public. The clarity is designed to promote just and equitable principles of trade by notifying all participants engaged in market making of potential outcomes. Today, quotations may not be executed against at prices that trade-through an away market. Also, quotations may not lock or cross an away market. The repricing of quotations is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. The Exchange is required avoiding displaying a quotation that would lock or cross a quotation of another market center at the time it is displayed. Preventing inferior prices from displaying perfects the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Options 3, Section 5, Entry and Display of Single-Leg Orders

Similar to Options 3, Section 4, which describes requirements for quotes, the Exchange proposes to adopt a new Options 3, Section 5, ''Entry and Display of Single-Leg Orders'' and describe the current requirements and conditions for entering orders. The Exchange notes that the requirements provided for within this rule represent the current practice. The purpose of Options 3, Section 5 is to memorialize this information within a single rule.

The Exchange proposes to state within new Options 3, Section 5(a), ''Members can enter orders into the System, subject to the following requirements and conditions:''. The Exchange proposes within new Options 3, Section 5(a)(1), ''Members shall be permitted to transmit to the System multiple orders at a single as well as multiple price levels.'' The Exchange's new rule text at Options 3, Section 5(a) proposes to make clear that multiple orders may be transmitted to the System as single or multiple price levels. This is the case today. The Exchange proposes to memorialize the manner in which orders may be submitted to the System to add more detail to its rules. The Exchange proposes at new Options 3, Section 5(a)(2), ''The System accepts orders beginning at a time specified by the Exchange and communicated on the Exchange's website.'' The System accepts orders beginning at a time specified by the Exchange and communicated on the Exchange's website.[9]

The Exchange proposes at new Options 3, Section 5(a)(3), ''The System shall time-stamp an order which shall determine the time ranking of the order for purposes of processing the order.'' Further, all orders are time-stamped to determine the time ranking of the order for purposes of processing the order within the System. This is also the case today and the Exchange is adding this detail to its rules to describe the time-stamp.

The Exchange proposes to add at new Options 3, Section 5(a)(4), ''Orders submitted to the System are subject to the following: Minimum increments provided for in Options 3, Section 3, risk protections provided for in Options 3, Section 15, and the restrictions of any order type as provided for in Options 3, Section 7. Orders may execute at multiple prices.'' All orders must adhere to other rule requirements such as minimum increments, risk protection rules and order types. Similar to the rule text for quotes, order are currently subject the minimum increment requirements in Options 3, Section 3 and also the risk protections for orders which are listed within current Options 3, Section 15. This rule provides a list of other requirements which may impact the execution of an order. Finally, orders may execute at multiple prices.

The Exchange proposes to add to new Options 3, Section 5(a)(5) the following, ''Nullification by Mutual Agreement. Trades may be nullified if all parties participating in the trade agree to the nullification. In such case, one party must notify the Exchange and the Exchange promptly will disseminate the nullification to OPRA. It is considered conduct inconsistent with just and equitable principles of trade for a party to use the mutual adjustment process to circumvent any applicable Exchange rule, the Act or any of the rules and regulations thereunder.'' The rule text of new Options 3, Section 5(a)(5) is relocated from Options 3, Section 4(b) because it related to orders. The Exchange proposes to caption proposed Options 3, Section 5(a)(5) as ''Nullification by Mutual Agreement'' and add the following sentence to this provision, ''It is considered conduct inconsistent with just and equitable principles of trade for a party to use the mutual adjustment process to circumvent any applicable Exchange rule, the Act or any of the rules and regulations thereunder.'' The Exchange believes that it is consistent with the Act to permit parties to agree to a nullification provided the nullification does not violate other exchange rules. The Exchange notes that parties may not agree to a mutual agreement for purposes that would cause another rule to be violated. The Exchange believes that it is consistent with the Act and protection of investors and general public to make clear the expected behavior with respect to nullifications.

[7] Current Options 3, Section 4(b) provides, ''A trade may be nullified if all parties participating in the trade agree to the nullification. In such case, one party must notify the Exchange and the Exchange promptly will disseminate the nullification to OPRA.''

[8] *See* Phlx Rule 1019. Nasdaq BX, Inc. and Nasdaq Stock Market LLC intend to file similar rules. Phlx Rule 1019 is similar to ISE Options 3, Section 4 except that Phlx displays and reprices quotes differently than ISE for purposes of trade-through. Phlx re-prices to the current national best offer (for bids) or the current national best bid (for offers) but displays at one minimum price variance above (for offers) or below (for bids) the national best price. ISE re-prices and displays quotes at one minimum price variance above (for offers) or below (for bids) the national best price, or, in the alternative if elected by the Member, the quote is otherwise immediately cancelled if it would cause a locked or crossed market. Further, while Phlx has a Quote Exhaust feature as described in Phlx Rule 1082, ISE has no similar feature.

[9] The Exchange's website makes the timeframes in which orders may be submitted to the System: *https://business.nasdaq.com/media/ISESystemSettings_tcm5044-44183.pdf.*

The rule text at proposed Options 3, Section 5(b) is relocated from Options 3, Section 15(a). The Exchange notes that this NBBO Protection applies to orders and therefore is being discussed within proposed Options 3, Section 5, which applies to all market participants. In contrast, Options 3, Section 4, which applies to quotes entered by Market Makers, describes the Firm Quote protections and the interplay of NBBO with respect to quotes. Trade-Through is described in both Options 3, Sections 4 and 5. The Exchange proposes to change the word ''rejected'' to ''cancelled'' within new Options 3, Section 5(b) because an order may be accepted by the System and then immediately cancelled. New Options 3, Section 5(c) seeks to define the Exchange's best bid and offer as the ''BBO.'' The Exchange provides, ''The System automatically executes eligible orders using the Exchange's displayed best bid and offer (''BBO'').''

Similar to Options 3, Section 4(b)(6), the Exchange proposes to note at new Options 3, Section 5(d),

> Trade-Through Compliance and Locked or Crossed Markets. An order will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. An order that is designated by the Member as routable will be routed in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions. Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be cancelled automatically by the System at the time of receipt.

Today, orders may not be executed at a price that trades through an away market. Also, orders may not lock or cross an away market. Routable orders must comply with Trade-Through and Locked and Crossed Markets restrictions. Finally, the Exchange proposes to cross-reference Supplementary Material .02 to Options 5, Section 2 to describe the manner in which orders that are not automatically executed are handled. Today, Members may specify that a Non-Customer order should instead be cancelled automatically by the System at the time of receipt. By including this information within this rule, the Exchange proposes to provide Members with information related to trade-through in one location with cross-references to provide transparency. This rule text is similar to rule text within BX Chapter VI, Section 7(b)(3)(C). Noting these limitations within the rule is consistent with the Act because Members will have greater clarity as to limitations.

Finally, the Exchange proposes to add rule text at new Options 3, Section 5(e), similar to Options 3, Section 4(c) which states, ''Orders will be displayed in the System as described in Options 3, Section 23.''

The Exchange's proposal to adopt a new Options 3, Section 5, ''Entry and Display of Orders'' and describe the current requirements and conditions for entering orders, similar to proposed changes to Options 3, Section 4 for quotes is consistent with the Act because it will provide transparency as to manner in which orders may be submitted to the System. The Exchange's new rule reflects the current requirements for submitting orders into the System. Similar to proposed Options 3, Section 4, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference.[10]

Options 3, Section 7, Types of Orders

The Exchange proposes to amend Supplementary Material .03(c) to Options 3, Section 7 to add the following sentence to Specialized Quote Feed (''SQF''), ''Market Makers may only enter interest into SQF in their assigned options series.'' The Exchange notes that today Market Makers may utilize SQF to quote only in their assigned options series as provided for in Options 2, Section 3, Appointment of Market Makers. Adding this information to the SQF protocol is consistent with the Act because the Exchange desires to make clear the manner in which Market Makers may submit quotes through the protocol. Market Makers are obligated to provide liquidity on ISE in the options series to which they are assigned, which liquidity benefits all market participants. This amendment is similar to language currently within Phlx Rule 1080(a)(i)(B).

[10] Phlx Rule 1096 is similar to ISE Options 3, Section 5. With respect to NBBO Protection, unlike Phlx, ISE Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be accepted and immediately cancelled automatically by the System at the time of receipt. Phlx does not have a similar exposure mechanism. Also, with respect to trade-through, Phlx re-prices an order that would cause a locked or crossed market violation or would cause a trade-through violation to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one minimum price variance above (for offers) or below (for bids) the national best price. While ISE will not execute an order at a price that trades through another market or display an order at a price that would lock or cross another market, ISE does not re-price orders. ISE Members may specify that a Non-Customer order should instead be cancelled automatically by the System at the time of receipt.

Options 3, Section 15 Simple Order Risk Protections

The Exchange proposes to delete the first sentence introductory sentence of Options 3, Section 15 which provides, ''Incoming orders that are executable against orders and quotes in the System will be executed automatically by the System subject to the following:'' and relocate the rule text to Options 3, Section 5 as described herein as well as Section 15(a)(1) and (a)(2), into proposed new Options 3, Section 5(b) and renumber Options 3, Section 15(b) as new ''a.'' The Exchange proposes to relocate current Options 3, Section 15(b)(1)(C) to Options 3, Section 15(b)(2)(B). Current Options 3, Section 15(b)(1)(D) will be re-lettered as ''C''. Options 3, Section 15(b)(1) provides for single-leg order risk protections. The Exchange proposes to relocate the Size Limitation protection to Options 3, Section 15(b)(2) because this section applies to order and quote risk protections. Size Limitation protection applies to both orders and quotes and is therefore properly placed within this section. The Exchange proposes to add the words ''or quote'' to the description to make clear that this protection applies to both orders and quotes.

The Exchange believes that relocating this rule and adding ''or quotes'' is consistent with the Act because the Exchange will make clear that the Size Limitation risk protection would apply to all interest on the Exchange.

Options 3, Section 22, Limitation on Orders

The Exchange proposes to amend Options 3, Section 22 to retitle the Section from ''Limitations on Orders'' to ''Limitations on Order Entry.'' The Exchange believes that this title is more appropriate for these rules.

The Exchange proposes to amend Options 3, Section 22(b) to amend the title of the section from ''Principal Transactions'' to ''Limitations on Principal Transactions.'' This rule provides for the exposure of orders entered on the Exchange. Specifically, with respect to orders entered when a Member is acting as agent and principal on an order, the order must be exposed for one second prior to execution to allow an opportunity for price improvement. The Exchange has filed for certain functionalities which are exceptions to the general standard of one second exposure. These functionalities have provisions which describe the manner in which orders can be entered into the Facilitation

Mechanism,[11] Price Improvement Mechanism,[12] Qualified Contingent Cross Orders,[13] Customer Cross Orders [14] and Complex Order Exposure.[15] The Exchange proposes to separately note that with respect to the Solicitation Mechanism,[16] that an Options Member may electronically submit for execution an order it represents as agent against solicited order(s). Options 3, Section 11(d) and (e) provide that an Agency Order must be for at least the minimum size designated by the Exchange, which may not be less than 500 standard option contracts, and the order be entered into the Solicited Order Mechanism shall be designated as all-or-none. Because a Member may not execute as principal on the order, there must be an Agency Order which executes against the solicited order; therefore, the Solicitation Mechanism is explicitly carved out from proposed Options 3, Section 22(b), whereas the other auctions noted are exceptions to the general one second rule. The Exchange believes it is consistent with the Act and the protection of investors and the general public to describe the functionalities available on the Exchange into which a Member may enter principal orders they represent as agent. Options 3, Section 22 is intended to encourage price discovery and price improvement of all orders entered on the Exchange.

The Exchange proposes to relocate Supplementary Material .01 to Options 3, Section 22 to new Section 22(b)(i) and state ''This Rule'' instead of ''Options 3, Section 22(d).'' The Exchange notes that the references to ''d'' should refer to ''b'' and those cross-references are being updated.

The Exchange proposes to amend the title of Options 3, Section 22(c), from ''Solicitation Orders'' to ''Limitation on Solicitation Orders.'' The Exchange proposes to add exceptions for *Qualified Contingent Cross Orders pursuant to Options 3, Section 12(c) and (d), Customer Cross Order pursuant to Options 3, Sections 12(a) or (b) and a Complex Order Exposure pursuant to Supplementary Material .01 to Options 3, Section 14* similar to proposed Options 3, Section 22(b).

The Exchange proposes to re-letter current ''d'' as ''e'' as the Exchange proposes new rule text at proposed Options 3, Section 22(d) which provides, ''Prior to or after submitting an order to ISE, a Member cannot inform another Member or any other third party of any of the terms of the order for purposes of violating this Rule.'' Similar rule text is contained in The Nasdaq Options Market LLC (''NOM'') Rules.[17] The Exchange believes that adding this language will better information participants that Options 3, Section 22 prohibits such behavior. The Exchange desires to conform the language in this rule to that of affiliated Nasdaq markets. The Exchange notes that similar language is currently contained within Supplementary Material .02 to Options 3, Section 22 which provides,

> It will be a violation of Options 3, Section 22(e) for an Electronic Access Member to cause the execution of an order it represents as agent on the Exchange by orders it solicited from Members and non-Member broker-dealers to transact with such orders, whether such solicited orders are entered into the System directly by the Electronic Access Member or by the solicited party (either directly or through another Member), if the Member fails to expose orders on the Exchange as required by Options 3, Section 22(e).

This rule text is repetitive of the provisions within current Options 3, Section 22(c). The Exchange is clearly providing within Options 3, Section 22(c) that a Member must expose an order for one second. Further, the Member cannot inform another Member or third party of the terms of the order, which would be a violation of the rule pursuant to proposed Options 3, Section 22(c). The Exchange does not believe that the rule text within Supplementary Material .02 to Options 3, Section 22 provides additional information, but rather is repetitive of the prohibitions within the rule, as proposed.

The Exchange proposes to update the rule citations in Supplementary Material .01 to Options 3, Section 22 to refer to paragraph ''b'' instead of ''d''. The Exchange proposes to update the rule numbers for the remainder of the Rule and also update the cross-reference in Supplementary Material .04 to Options 3, Section 22.

The Exchange proposes to make clear with this Rule that Members may not gain by failing to expose orders submitted on an agency basis. The Exchange is promoting transparency of orders to prevent Members from seeking price discovery and potentially preventing price improvement, which may result from exposing an order. The Exchange's proposal to amend Options 3, Section 22 will conform this Rule to other Nasdaq affiliated markets filing similar rules.[18] The Exchange's proposal to add rule text to describe potential violations of this Rule will bring greater clarity to current limitations that exist when entering orders. The amendments to Options 3, Section 22 are consistent with the Act because the Rule provides a list of limitations when entering order on the Exchange. The Exchange believes the proposed rule will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because it will continue to make clear the requirement to expose orders as well as present more specific limitations on order entry which would violate Exchange Rules. Providing Members with more information as to the type of behavior that is violative with respect to order exposure will prevent inadvertent violations of Exchange rules and ensure that orders are subject to appropriate price discovery.

Options 5, Section 2 Order Protection

The Exchange proposes to amend Supplementary Material .02(f) within Options 5, Section 2. This rule currently states, ''A pattern or practice of submitting unrelated orders that cause an exposure period to conclude early will be deemed conduct inconsistent with just and equitable principles of trade and a violation of Options 9, Section 1 and other Exchange Rules.'' The Exchange proposes to cross-reference Options 3, Section 22 to provide further clarity on the manner in which Members may be found to have violated Supplementary Material .02 to Options 5, Section 2. Specifically, the Exchange proposes to remove the word ''unrelated'' and more specifically indicate all submitting orders that cause an exposure period to conclude early for the purposes of violating Options 3, Section 22 will also be deemed conduct inconsistent with just and equitable principles of trade and a violation of Options 9, Section 1 and other Exchange Rules. The Exchange believes that this additional language referencing Options 3, Section 22 will provide context for the violation as Options 3, Section 22 describes the exposure requirements for orders. Further, the Exchange believes all orders, not just ''unrelated'' orders may cause a rule violation. The Exchange believes that it is consistent with the Act to make clear the manner in which a Member may violate Options

[11] *See* Options 3, Section 11(b) and (c).

[12] *See* Options 3, Section 13.

[13] *See* Options 3, Section 12(c) and (d).

[14] *See* Options 3, Section 12(a) and (b).

[15] *See* Supplementary Material .01 to Options 3, Section 14.

[16] *See* Options 3, Section 11(d) and (e).

[17] *See* NOM Rules at Chapter VII, Section 12 at Commentary .04.

[18] Nasdaq BX, Inc. and Nasdaq Stock Market LLC are also adopting similar rules to Phlx Rule 1097.

3, Section 2 which respect to order exposure.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of 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 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.

Options 3, Section 4, Acceptance of Quote and Orders

The Exchange's proposal to add a new section (b) to Options 3, Section 4 to describe the current requirements and conditions for submitting quotes are consistent with the Act. The Exchange is memorializing its current practice by reflecting the various requirements and limitations for quote entry in one rule for ease of reference and clarity. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges. Making clear the manner in which Market Makers may generate and submit option quotations will provide these market participants with clear guidance within the rules. The Exchange notes that other rules already limit the use of quotations on the Exchange. Options 2, Section 5 makes clear that Market Makers may submit quotes.[21] Supplementary Material .03(c) to Options 3, Section 7 describes the SQF interface.[22] Options 2, Section 4(b)(4) provides the allowable spread for entering bids and offers on the Exchange. Further, the Exchange is making clear that only one quote may be submitted at a time for a series. The Exchange believes that memorializing these restrictions will bring greater clarity to the Exchange's rules. Also, the Exchange believes that making clear that quotes may be entered as specified by the Exchange makes clear that all Market Makers are subject to uniform requirements for quoting.

The Exchange's proposal to add a provision regarding Firm Quote within new Options 3, Section 4(b)(5) will bring greater transparency to the limitations that Market Makers have today with respect to firm quote. ISE's Options 2, Section 5(d) describes firm quote for purposes of Market Maker quote submission. The Exchange is proposing to add rule text to provide context as to this restriction for submitting quotes. The proposed rule text makes clear the manner in which Firm Quote relief is applied. The Exchange believes it is consistent with the Act to provide greater detail as to the current obligations for Market Makers with respect to firm quote. The addition rule text is consistent with the Act because the Exchange is adding detail regarding the method in which orders which are firm or locked and crossed will be handled in the System.

The notifications for Firm Quote are made clear with the proposed rule text. The Exchange believes that it is consistent with the Act to specify when quotes are firm and the handling of such quotes by the System for the protection of investors and the general public. The clarity is designed to promote just and equitable principles of trade by notifying all participants engaged in market making of potential outcomes. Further, the Exchange's proposal to add more detail at proposed new Options 3, Section 4(b)(6) regarding trade-through and locked and crossed markets is consistent with the Act. Today, quotations may not be executed against at prices that trade-through an away market. Also, quotations may not lock or cross an away market. Also, quotations may not lock or cross an away market. By stating this limitation in the rule, Members will have greater clarity as to this limitation. The repricing of quotations is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. The Exchange's proposal to note that quotes are subject to minimum increments provided for in Options 3, Section 3 and risk protections provided for in Options 3, Section 15 is consistent with the Act because this rule brings greater transparency to these requirements which are already noted in the aforementioned rules. Options 2, Section 5(b)(1) similarly requires a Market Maker to quote in the minimum increments specified in Options 3, Section 3. Options 3, Section 15, titled ''Simple Order Risk Protections'' provides a list of all protections applicable to quotes that may cause an order to be rejected. The Exchange believes that this rule will provide Market Makers with requirements and conditions for submitting quotations and provide transparency as to limitations that cause a quote to be rejected.

The Exchange's proposal to make clear that quotes will be displayed in the System as described in Options 3, Section 23 is intended to bring greater transparency as to the data available on the Exchange. Options 3, Section 23, titled ''Data Fees and Trade Information'' provides for the available feeds that Members may access on the Exchange.

Options 3, Section 5, Entry and Display of Single-Leg Orders

The Exchange proposes to retitle Options 3, Section 5 as ''Entry and Display of Single-Leg Orders'' to describe the current requirements and conditions for entering orders, similar to proposed changes to Options 3, Section 5 for quotes is consistent with the Act because it will provide transparency as to manner in which orders may be submitted to the System. The Exchange's new rule text memorializes the current requirements for submitting orders into the System. Similar to proposed Options 3, Section 4, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference.

The Exchange's new rule text at Options 3, Section 5(a) proposes to make clear that multiple orders may be transmitted to the System as single or multiple price levels to add greater transparency to the Exchange's rules. The Exchange proposes to memorialize the manner in which orders may be submitted to the System to add more detail to its rules. For example, the time the System begins accepting orders, information concerning the time-stamp, which determines the time ranking of the order, as well as restrictions to order entry. Orders submitted to the System are subject to minimum increments specified in Options 3, Section 3 risk protections provided for in Options 3, Section 15, and the restrictions of any order type as provided for in Options 3, Section 7. The Exchange believes that listing the requirements and limitations is consistent with the Act because it will provide Members with the information necessary to process orders on ISE. In addition, noting that parties may not agree to a mutual agreement for purposes that would cause another rule to be violated is consistent with the Act because it provides transparency to Members that certain behavior would cause a rule violation. The Exchange believes that this provision protects

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] Options 2, Section 5(a) provides, ''Options Classes. A quotation only may be entered by a market maker, and only in the options classes to which the market maker is appointed under Options 2, Section 3.'' Options 2, Section 5(d) provides for Firm Quote.

[22] Supplementary Material .03(c) to Options 3, Section 7 provides ''Specialized Quote Feed'' or ''SQF'' is an interface that allows market makers to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses to the Exchange. Market Makers on ISE can only submit quotes and orders through SQF in their assigned options series.

investors and the public interest because it specifically prohibits market manipulation within propose new rule. The Exchange's proposal to define both the Exchange's best bid and offer as the ''BBO'' is consistent with the Act because it provides context to the usage of these terms in the Rulebook. The Exchange notes, within Options 3, Section 7, the orders are displayed and non-displayed.

Further, the Exchange's proposal to add more detail at proposed new Options 3, Section 5(d) regarding trade-through and locked and crossed markets is consistent with the Act. Today, orders may not be executed against at prices that trade-through an away market. Also, orders may not lock or cross an away market. Routable orders must comply with Trade-Through and Locked and Crossed Markets restrictions. By stating this limitation in the rule, Members will have greater clarity as to this limitation. The rule also seeks to aggregate information relating to trading-through so as to provide Members with clear guidelines for submitting orders.

The Exchange's proposal to make clear that orders will be displayed in the System as described in Options 3, Section 23 is intended to bring greater transparency as to the data available on the Exchange. Options 3, Section 23 titled ''Data Fees and Trade Information'' provides for the available feeds that Members may access on the Exchange.

Options 3, Section 7, Types of Orders

The Exchange's proposal to amend Supplementary Material .03(c) to Options 3, Section 7 to make clear that Market Makers may only enter interest into SQF in their assigned options series is consistent with the Act. Options 2, Section 3, Appointment of Market Makers, describes the manner in which Market Makers are appointed in options series. This sentence simply provides that SQF may only be utilized for quoting in assigned options series.

Options 3, Section 15, Simple Order Risk Protections

The Exchange's proposal to relocate Options 3, Section 15(a) [23] into proposed new Options 3, Section 5(b) is consistent with the Act because this rule text relates to orders, which topic is described within new Options 3, Section 5. The proposal to relocate Size Limitation to make clear that this risk protection impacts orders and quotes will bring greater transparency to this risk protection.

Options 3, Section 22, Limitation on Orders

The Exchange's proposal to amend Options 3, Section 22 to list all the exceptions to the exposure requirement is consistent with the Act because this rule change will bring greater clarity to the Rulebook. The Exchange is adding rule text currently contained in a NOM rule to describe the required period that orders are to be exposed.[24] The Exchange believes the additional language provided context and further explains the exceptions. The Exchange believes that this rule is consistent with the Act because with the addition of this language the rule more specifically describes the limitations to behavior on the Exchange with respect to order exposure and the necessity to conduct price discovery. The rule also describes behavior that would violate Options 3, Section 22 depending on the relationship of the parties and exchange of information. Listing all of the relevant mechanisms available on the Exchange will make clear the manner in which a Member may execute as principal orders they represent as agent. Further, explicitly excluding the Solicitation Mechanism will make clear that the particular auction is not an exception to the one second rule. The Exchange's proposal to relocate rule text to create topic headings and discuss each topic discretely will bring greater clarity to this rule text. The Exchange's proposal to add a new Options 3, Section 22(c) will make clear that a Member cannot inform another Member or any other third party of any of the terms of the order in violation of this rule. Options 9, Section 9, titled ''Prevention of the Misuse of Material Nonpublic Information,'' prohibits such activity today. This rule text is contained in NOM Rules.[25] The Exchange desires to conform the language in this rule to that of affiliated Nasdaq markets. Finally, updating the cross-references will make clear the manner in which a Member may enter orders on the Exchange.

Options 5, Section 2, Order Protection

The Exchange's proposal to amend Supplementary Material .02(f) within Rule Options 5, Section 2 to make clear behavior that would violate this rule is consistent with the Act because the Exchange seeks to provide Members with specific information as to the type of behavior the rule seeks to limit. This rule currently states, ''A pattern or practice of submitting unrelated orders that cause an exposure period to conclude early will be deemed conduct inconsistent with just and equitable principles of trade and a violation of Options 9, Section 1 and other Exchange Rules.'' The Exchange proposes to cross-reference Options 3, Section 22 to provide further clarity on the manner in which Members may be found to have violated Options 5, Section 2. Specifically, the Exchange proposes to remove the word ''unrelated'' and more specifically indicate all submitting orders that cause an exposure period to conclude early for the purposes of violating Options 3, Section 22 will also be deemed conduct inconsistent with just and equitable principles of trade and a violation of Options 9, Section 1 and other Exchange Rules. The Exchange believes that this additional language referencing Options 3, Section 22 will provide context for the violation as Options 3, Section 22 describes the exposure requirements for orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Options 3, Section 4, Acceptance of Quote and Orders

The Exchange's proposal to add a new section (b) to Options 3, Section 4 to describe the current requirements and conditions for submitting quotes does not impose an undue burden on competition because the Exchange is memorializing its current practice by reflecting the various requirements and limitations in one rule for ease of reference and clarity and all Market Makers are subject to the these requirements today. The Exchange is memorializing its current practice by reflecting the various requirements and limitations for quote entry in one rule for ease of reference and clarity. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges.

[23] Options 5, Section 15(a) provides, ''NBBO Price Protection. Orders, other than Intermarket Sweep Orders (as defined in Options 5, Section 1(h)), will not be automatically executed by the System at prices inferior to the NBBO (as defined in Options 5, Section 1(j)). (1) Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 3; provided that Members may specify that a Non-Customer order should instead be rejected automatically by the System at the time of receipt. (2) There is no NBBO price protection with respect to any other market whose quotations are Non-Firm (as defined in Options 5, Section 1(k)).''

[24] *See* Chapter VII, Section 12.

[25] *See* Chapter VII, Section 12 at Commentary .04.

Options 3, Section 5, Entry and Display of Orders

The Exchange's proposed new Options 3, Section 5 describes the requirements and conditions pursuant to which Members can enter orders into the System. The Exchange's proposal does not impose an undue burden on competition because it applies uniformly to all Members. This rule memorializes the manner in which orders may be submitted to the System and provides transparency as to manner in which orders may be submitted to the System. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges.

Options 3, Section 7, Types of Order

The Exchange's proposal to amend Supplementary Material .03(c) to Options 3, Section 7 to make clear that Market Makers may only enter interest into SQF in their assigned options series does not impose an undue burden on competition, rather it makes clear that SQF may only be utilized for quoting in assigned options series. This rule is applicable to all Market Makers.

Options 3, Section 15, Simple Order Risk Protections

The Exchange's proposal to relocate Options 3, Section 15(a) into proposed new Options 3, Section 5(b) does not impose an undue burden on competition because this rule text relates to orders, which topic is described within new Options 3, Section 5. Relocating the Size Limitation protection to another section of the rule to make clear it applies to quotes and orders will bring greater transparency to this rule.

Options 3, Section 22, Limitation on Orders

The Exchange's proposal to amend Options 3, Section 22 to list all the exceptions to the exposure requirement does not impose an undue burden on competition because this rule change will bring greater clarity to the Rulebook. The Exchange's proposal to relocate rule text to create topic headings and discuss each topic discretely will bring greater clarity to this rule text. The Exchange's proposal to add a new Options 3, Section (c) will make clear the type of behavior that would cause a Member to violate Options 3, Section 22 when disclosing information to another Member or any other third party with respect to the terms of the order.

Options 5, Section 2, Order Protection

The Exchange's proposal to amend Supplementary Material .02(f) within Rule Options 5, Section 2 to make clear behavior that would violate this rule does not impose an undue burden on competition because it seeks to provide Members with specific information as to the type of behavior the rule seeks to limit. This rule would apply uniformly to all Members.

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 [26] and subparagraph (f)(6) of Rule 19b–4 thereunder.[27]

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–ISE–2019–23 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–2019–23. 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–2019–23, and should be submitted on or before October 28, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–21736 Filed 10–4–19; 8:45 am]

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[26] 15 U.S.C. 78s(b)(3)(A)(iii).

[27] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change 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.

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87180; File No. SR–GEMX–2019–13]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Submission of Quotes and Orders

October 1, 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 September 17, 2019, Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 3 at Section 4, ''Acceptance of Quotes and Orders,'' adopt a new Section 5, ''Entry and Display of Orders,'' Section 7, ''Types of Order,'' at Supplementary Material .03 and Section 22 titled ''Limitations on Orders.'' The Exchange proposes to amend Options 3, Section 15, ''Simple Order Risk Protections.''

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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 Options 3 at Section 4, ''Acceptance of Quotes and Orders,'' adopt a new Section 5, ''Entry and Display of Orders,'' Section 7, ''Types of Order,'' at Supplementary Material .03 and Section 22 titled ''Limitations on Orders.'' The Exchange proposes to amend Options 3, Section 15, ''Simple Order Risk Protections.'' Each rule change will be discussed in greater detail below.

Options 3, Section 4, Acceptance of Orders and Quotes

Currently, Options 3, Section 4 is titled ''Acceptance of Quotes or Orders.'' The Exchange proposes to retitle Options 3, Section 4 as ''Entry and Display of Quotes.'' The Exchange proposes to add a new section (b) to Options 3, Section 4 to describe the current requirements and conditions for submitting quotes. These requirements reflect the current System operation today. The Exchange proposes to memorialize the various requirements for the submission of quotes into the System for greater transparency. The Exchange proposes to provide at new Options 3, Section 4(b), ''Quotes are subject to the following requirements and conditions:''. The Exchange proposes to add at Options 3, Section 4(b)(1) that ''Market Makers may generate and submit option quotations.'' Current Options 2, Section 5 makes clear that Market Makers may submit quotes.[4] The Exchange proposes to create a list of rules related to quote submission within this rule for ease of reference. The Exchange proposes to provide at proposed new Options 3, Section 4(b)(2) that ''The System shall time-stamp a quote which shall determine the time ranking of the quote for purposes of processing the quote.'' The Exchange notes that all quotes today are time-stamped for purposes of processing quotes. Proposed Options 3, Section 4(b)(3) states that ''Market Makers may enter bids and/or offers in the form of a two-sided quote. Only one quote may be submitted at a time for an option series.'' The Exchange believes that this information will provide Market Makers with information on submitting a quote. The Exchange notes that bid or offer may be a ''0,'' however a price is required to be entered for both the bid and offer to be entered into the System. Further, the Exchange proposes at Options 3, Section 4(b)(4) to provide clarity for entering quotes and proposes to specify, ''The System accepts quotes for the Opening Process as specified in Options 3, Section 8.'' [5] The Exchange believes that this information will bring greater transparency to the Rulebook with respect to limitations for submitting quotations into the System.

The Exchange proposes a provision regarding firm quote within proposed Options 3, Section 4(b)(5):

> *Firm Quote.* Where quotes in options on another market or markets are subject to relief from the firm quote requirement set forth in the Rule 602 of Regulation NMS under the Exchange Act orders and quotes will receive an automatic execution at or better than the NBBO based on the best bid or offer in markets whose quotes are not subject to such relief. Such determination may be made by way of notification from another market that its quotes are not firm or are unreliable; administrative message from the Option Price Reporting Authority (''OPRA''); quotes received from another market designated as ''not firm'' using the appropriate indicator; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are not firm. The Exchange shall maintain a record of each instance in which another exchange's quotes are excluded from the Exchange's calculation of NBBO, and shall notify such other exchange that its quotes have been so excluded. Where quotes in options on another market or markets previously subject to relief from the firm quote requirement set forth in the Quote Rule are no longer subject to such relief, such quotations will be included in the calculation of NBBO for such options. Such determination may be made by way of notification from another market that its quotes are firm; administrative message from OPRA; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are firm.

GEMX's Options 2, Section 5(d) describes Firm Quote for purposes of Market Maker quote submission. The Exchange proposes to memorialize within its Rules the requirement for the dissemination of quotations pursuant to Reg NMS.[6] The Exchange is proposing to add the above rule text to provide context as to this restriction for submitting quotes. The Exchange proposes to make clear the manner in which quote relief will occur. Specifically, this proposed rule text indicates the manner in which a

[4] Options 2, Section 5(a) provides, ''Options Classes. A quotation only may be entered by a Market Maker, and only in the options classes to which the market maker is appointed under Options 2, Section 3.'' Options 2, Section 5(d) provides for Firm Quotes.

[5] Options 3, Section 8(c) provides, ''Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 a.m. Eastern Time are included in the Opening Process. Orders entered at any time before an option series opens are included in the Opening Process.''

[6] 17 CFR 242.602.

determination for quote relief is made. Further, the rule notes the Exchange shall maintain a record of each instance in which another exchange's quotes are excluded from the Exchange's calculation of NBBO, and shall notify such other exchange that its quotes have been so excluded. Also, when relief is no longer available, such quotations will be included in the calculation of NBBO for such options. The Exchange notes how the determination is made that relief is no longer available. The proposed rule text adds greater context to the manner in which Firm Quote relief is applied. This rule text represents the current practice.

Similarly, the Exchange proposes to provide the following at proposed new Options 3, Section 4(b)(6):

Trade-Through Compliance and Locked or Crossed Markets. A quote will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. If, at the time of entry, a quote would cause a locked or crossed market violation or would cause a trade-through violation, it will either re-priced and displayed at one minimum price variance above (for offers) or below (for bids) the national best price or immediately cancelled, as configured by the Member.

Today, quotations may not be executed against at prices that trade-through an away market as provided for in the Options Order Protection and Locked/Crossed Market Plan which is described within Options 5. Also, quotations may not lock or cross an away market. By stating this limitation in the rule, Market Makers will have greater clarity as to this limitation. Further, the Exchange is making clear that a quote that would cause a locked or crossed market violation or would cause a trade-through violation will be re-priced. The Exchange would display the quote at one minimum price variation (''MPV'') above (for offers) or below (for bids) the national best price or the quote would be immediately cancelled if requested by the Member. Repricing quotes is consistent with the Act because the Exchange is not permitted to lock or cross an away market's quote or order. The Exchange reprices the quotes one MPV inferior to cause the displayed price to reflect the available market on the Exchange.

Finally, the Exchange proposes at Options 3, Section 4(b)(7) to provide, ''Quotes submitted to the System are subject to the following: minimum increments provided for in Options 3, Section 3 and risk protections provided for in Options 3, Section 15.'' If the Market Maker does not submit a quotation compliant with Options 3, Section 3, the quote will not be accepted by the System. The Exchange is noting herein the manner in which a quote may be rejected by the System to provide market participants with expectations as to the interplay among the various Exchange Rules. Specifically, if the Market Maker does not submit a quotation compliant with Options 3, Section 3, the quote will not be accepted by the System because market participants are required to abide by Options 3, Section 3 which describes the increments with which options series are to be quoted. Options 3, Section 15 provides a list of all protections applicable to quotes that may be rejected. The Exchange believes that this rule will provide Members with requirements and conditions for submitting quotations and provide transparency as to limitations that cause a quote to be rejected.

The Exchange proposes to provide at Options 3, Section 4(c), ''Quotes will be displayed in the System as described in Options 3, Section 23.'' Options 3, Section 23, titled ''Data Fees and Trade Information'' provides for the available feeds that Members may access on the Exchange. This list represents the available data feeds and the content of those data feeds which are offered today by the Exchange.

As discussed in more detail below, the Exchange proposes to relocate current Options 3, Section 4(b) [7] to new Options 3, Section 5(a)(5) as described below in greater detail.

The amendment to Options 3, Section 4 to create a list of all the requirements and conditions for submitting quotes on the Exchange within one rule is consistent with the Act because it will provide greater transparency to market participants of the applicable requirements. Further, this proposal will make the current rule clear and understandable for market participants thereby protecting investors and the general public. The Exchange notes that while some of these requirements appear in other rules, for ease of reference the requirements are located within a single rule with this proposal. The proposal reflects the Exchange's current practice with respect to quoting requirements. This proposal will conform this Rule to other Nasdaq affiliated markets filing similar rules.[8] The Exchange's proposal is intended to provide greater information with respect to Firm Quote within new Options 3, Section 4(b)(5) and regarding trade-through and locked and crossed markets Options 3, Section 4(b)(6). The addition rule text is consistent with the Act because the Exchange is adding detail regarding the method in which orders which are firm or locked and crossed will be handled in the System. The notifications for Firm Quote are made clear with the proposed rule text. The Exchange believes that it is consistent with the Act to specify when quotes are firm and the handling of such quotes by the System for the protection of investors and the general public. The clarity is designed to promote just and equitable principles of trade by notifying all participants engaged in market making of potential outcomes. Today, quotations may not be executed against at prices that trade-through an away market. Also, quotations may not lock or cross an away market. The repricing of quotations is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. The Exchange is required avoiding displaying a quotation that would lock or cross a quotation of another market center at the time it is displayed. Preventing inferior prices from displaying perfects the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Options 3, Section 5, Entry and Display of Orders

Similar to Options 3, Section 4, which describes requirements for quotes, the Exchange proposes to adopt a new Options 3, Section 5, ''Entry and Display of Orders'' and describe the current requirements and conditions for entering orders. The Exchange notes that the requirements provided for within this rule represent the current practice. The purpose of Options 3, Section 5 is to memorialize this information within a single rule.

The Exchange proposes to state within new Options 3, Section 5(a), ''Members can enter orders into the

[7] Current Options 3, Section 4(b) provides, ''A trade may be nullified if all parties participating in the trade agree to the nullification. In such case, one party must notify the Exchange and the Exchange promptly will disseminate the nullification to OPRA.''

[8] *See* Phlx Rule 1019. Nasdaq BX, Inc. and Nasdaq Stock Market LLC intend to file similar rules. Phlx Rule 1019 is similar to GEMX Options 3, Section 4 except that Phlx displays and reprices quotes differently than GEMX for purposes of trade-through. Phlx re-prices to the current national best offer (for bids) or the current national best bid (for offers) but displays at one minimum price variance above (for offers) or below (for bids) the national best price. GEMX re-prices and displays quotes at one minimum price variance above (for offers) or below (for bids) the national best price, or, in the alternative if elected by the Member, the quote is otherwise immediately cancelled if it would cause a locked or crossed market. Further, while Phlx has a Quote Exhaust feature as described in Phlx Rule 1082, GEMX has no similar feature.

System, subject to the following requirements and conditions:''. The Exchange proposes within new Options 3, Section 5(a)(1), ''Members shall be permitted to transmit to the System multiple orders at a single as well as multiple price levels.'' The Exchange's new rule text at Options 3, Section 5(a) proposes to make clear that multiple orders may be transmitted to the System as single or multiple price levels. This is the case today. The Exchange proposes to memorialize the manner in which orders may be submitted to the System to add more detail to its rules. The Exchange proposes at new Options 3, Section 5(a)(2), ''The System accepts orders beginning at a time specified by the Exchange and communicated on the Exchange's website.'' The System accepts orders beginning at a time specified by the Exchange and communicated on the Exchange's website.[9]

The Exchange proposes at new Options 3, Section 5(a)(3), ''The System shall time-stamp an order which shall determine the time ranking of the order for purposes of processing the order.'' Further, all orders are time-stamped to determine the time ranking of the order for purposes of processing the order within the System. This is also the case today and the Exchange is adding this detail to its rules to describe the time-stamp.

The Exchange proposes to add at new Options 3, Section 5(a)(4), ''Orders submitted to the System are subject to the following: Minimum increments provided for in Options 3, Section 3, risk protections provided for in Options 3, Section 15, and the restrictions of any order type as provided for in Options 3, Section 7. Orders may execute at multiple prices.'' All orders must adhere to other rule requirements such as minimum increments, risk protection rules and order types. Similar to the rule text for quotes, order are currently subject the minimum increment requirements in Options 3, Section 3 and also the risk protections for orders which are listed within current Options 3, Section 15. This rule provides a list of other requirements which may impact the execution of an order. Finally, orders may execute at multiple prices.

The Exchange proposes to add to new Options 3, Section 5(a)(5) the following, ''Nullification by Mutual Agreement. Trades may be nullified if all parties participating in the trade agree to the nullification. In such case, one party must notify the Exchange and the Exchange promptly will disseminate the nullification to OPRA. It is considered conduct inconsistent with just and equitable principles of trade for a party to use the mutual adjustment process to circumvent any applicable Exchange rule, the Act or any of the rules and regulations thereunder.'' The rule text of new Options 3, Section 5(a)(5) is relocated from Options 3, Section 4(b) because it related to orders. The Exchange proposes to caption proposed Options 3, Section 5(a)(5) as ''Nullification by Mutual Agreement'' and add the following sentence to this provision, ''It is considered conduct inconsistent with just and equitable principles of trade for a party to use the mutual adjustment process to circumvent any applicable Exchange rule, the Act or any of the rules and regulations thereunder.'' The Exchange believes that it is consistent with the Act to permit parties to agree to a nullification provided the nullification does not violate other exchange rules. The Exchange notes that parties may not agree to a mutual agreement for purposes that would cause another rule to be violated. The Exchange believes that it is consistent with the Act and protection of investors and general public to make clear the expected behavior with respect to nullifications.

The rule text at proposed Options 3, Section 5(b) is relocated from Options 3, Section 15(a). The Exchange notes that this NBBO Protection applies to orders and therefore is being discussed within proposed Options 3, Section 5, which applies to all market participants. In contrast, Options 3, Section 4, which applies to quotes entered by Market Makers, describes the Firm Quote protections and the interplay of NBBO with respect to quotes. Trade-Through is described in both Options 3, Sections 4 and 5. The Exchange proposes to change the word ''rejected'' to ''cancelled'' within new Options 3, Section 5(b) because an order may be accepted by the System and then immediately cancelled. New Options 3, Section 5(c) seeks to define the Exchange's best bid and offer as the ''BBO.'' The Exchange provides, ''The System automatically executes eligible orders using the Exchange's displayed best bid and offer (''BBO'').''

Similar to Options 3, Section 4(b)(6), the Exchange proposes to note at new Options 3, Section 5(d),

Trade-Through Compliance and Locked or Crossed Markets. An order will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. An order that is designated by the Member as routable will be routed in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions. Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be cancelled automatically by the System at the time of receipt.

Today, orders may not be executed at a price that trades through an away market. Also, orders may not lock or cross an away market. Routable orders must comply with Trade-Through and Locked and Crossed Markets restrictions. Finally, the Exchange proposes to cross-reference Supplementary Material .02 to Options 5, Section 2 to describe the manner in which orders that are not automatically executed are handled. Today, Members may specify that a Non-Customer order should instead be cancelled automatically by the System at the time of receipt. By including this information within this rule, the Exchange proposes to provide Members with information related to trade-through in one location with cross-references to provide transparency. This rule text is similar to rule text within BX Chapter VI, Section 7(b)(3)(C). Noting these limitations within the rule is consistent with the Act because Members will have greater clarity as to limitations.

Finally, the Exchange proposes to add rule text at new Options 3, Section 5(e), similar to Options 3, Section 4(c) which states, ''Orders will be displayed in the System as described in Options 3, Section 23.''

The Exchange's proposal to adopt a new Options 3, Section 5, ''Entry and Display of Orders'' and describe the current requirements and conditions for entering orders, similar to proposed changes to Options 3, Section 4 for quotes is consistent with the Act because it will provide transparency as to manner in which orders may be submitted to the System. The Exchange's new rule reflects the current requirements for submitting orders into the System. Similar to proposed Options 3, Section 4, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference.[10]

[9] The Exchange's website makes the timeframes in which orders may be submitted to the System: *https://business.nasdaq.com/media/GEMXSystemSetting_tcm5044-41351.pdf.*

[10] Phlx Rule 1096 is similar to GEMX Options 3, Section 5. With respect to NBBO Protection, unlike Phlx, GEMX Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be accepted and immediately cancelled automatically by the System at the time of receipt. Phlx does not have a similar exposure mechanism. Also, with respect to trade-

Continued

Options 3, Section 7, Types of Orders

The Exchange proposes to amend Supplementary Material .03(c) to Options 3, Section 7 to add the following sentence to Specialized Quote Feed (''SQF''), ''Market Makers may only enter interest into SQF in their assigned options series.'' The Exchange notes that today Market Makers may utilize SQF to quote only in their assigned options series as provided for in Options 2, Section 3, Appointment of Market Makers. Adding this information to the SQF protocol is consistent with the Act because the Exchange desires to make clear the manner in which Market Makers may submit quotes through the protocol. Market Makers are obligated to provide liquidity on GEMX in the options series to which they are assigned, which liquidity benefits all market participants. This amendment is similar to language currently within Phlx Rule 1080(a)(i)(B).

Options 3, Section 15 Simple Order Risk Protections

The Exchange proposes to delete the first sentence introductory sentence of Options 3, Section 15 which provides, ''Incoming orders that are executable against orders and quotes in the System will be executed automatically by the System subject to the following:'' and relocate the rule text to Options 3, Section 5 as described herein as well as Section 15(a)(1) and (a)(2), into proposed new Options 3, Section 5(b) and renumber Options 3, Section 15(b) as new ''a.'' The Exchange proposes to relocate current Options 3, Section 15(b)(1)(C) to Options 3, Section 15(b)(2)(B). Current Options 3, Section 15(b)(1)(D) will be re-lettered as ''C''. Options 3, Section 15(b)(1) provides for order risk protections. The Exchange proposes to relocate the Size Limitation protection to Options 3, Section 15(b)(2) because this section applies to order and quote risk protections. Size Limitation protection applies to both orders and quotes and is therefore properly placed within this section. The Exchange proposes to add the words ''or quote'' to the description to make clear that this protection applies to both orders and quotes. The Exchange believes that relocating this rule and adding ''or quotes'' is consistent with the Act because the Exchange will make clear that the Size Limitation risk protection would apply to all interest on the Exchange.

Options 3, Section 22, Limitation on Orders

The Exchange proposes to amend Options 3, Section 22 to retitle the Section from ''Limitations on Orders'' to ''Limitations on Order Entry.'' The Exchange believes that this title is more appropriate for these rules.

The Exchange proposes to amend Options 3, Section 22(b) to amend the title of the section from ''Principal Transactions'' to ''Limitations on Principal Transactions.'' This rule provides for the exposure of orders entered on the Exchange. Specifically, with respect to orders entered when a Member is acting as agent and principal on an order, the order must be exposed for one second prior to execution to allow an opportunity for price improvement. The Exchange has filed for certain functionalities which are exceptions to the general standard of one second exposure. These functionalities have provisions which describe the manner in which orders can be entered into the Facilitation Mechanism,[11] Price Improvement Mechanism,[12] Qualified Contingent Cross Orders,[13] and Customer Cross Orders.[14] The Exchange proposes to separately note that with respect to the Solicitation Mechanism,[15] that an Options Member may electronically submit for execution an order it represents as agent against solicited order(s). Options 3, Section 11(d) and (e) provide that an Agency Order must be for at least the minimum size designated by the Exchange, which may not be less than 500 standard option contracts, and the order be entered into the Solicited Order Mechanism shall be designated as all-or-none. Because a Member may not execute as principal on the order, there must be an Agency Order which executes against the solicited order; therefore, the Solicitation Mechanism is explicitly carved out from proposed Options 3, Section 22(b), whereas the other auctions noted are exceptions to the general one second rule. The Exchange believes it is consistent with the Act and the protection of investors and the general public to describe the functionalities available on the Exchange into which a Member may enter principal orders they represent as agent. Options 3, Section 22 is intended to encourage price discovery and price improvement of all orders entered on the Exchange.

The Exchange proposes to relocate Supplementary Material .01 to Options 3, Section 22 to new Section 22(b)(i) and state ''This Rule'' instead of ''Options 3, Section 22(d).'' The Exchange notes that the references to ''d'' should refer to ''b'' and those cross-references are being updated.

The Exchange proposes to amend the title of Options 3, Section 22(c), from ''Solicitation Orders'' to ''Limitation on Solicitation Orders.'' The Exchange proposes to add exceptions for *Qualified Contingent Cross Orders pursuant to Options 3, Section 12(c) and (d) and Customer Cross Order pursuant to Options 3, Sections 12(a) or (b)* similar to proposed Options 3, Section 22(b).

The Exchange proposes to re-letter current ''d'' as ''e'' as the Exchange proposes new rule text at proposed Options 3, Section 22(d) which provides, ''Prior to or after submitting an order to GEMX, a Member cannot inform another Member or any other third party of any of the terms of the order for purposes of violating this Rule.'' Similar rule text is contained in The Nasdaq Options Market LLC (''NOM'') Rules.[16] The Exchange believes that adding this language will better information participants that Options 3, Section 22 prohibits such behavior. The Exchange desires to conform the language in this rule to that of affiliated Nasdaq markets. The Exchange notes that similar language is currently contained within Supplementary Material .02 to Options 3, Section 22 which provides,

> It will be a violation of Options 3, Section 22(e) for an Electronic Access Member to cause the execution of an order it represents as agent on the Exchange by orders it solicited from Members and non-Member broker-dealers to transact with such orders, whether such solicited orders are entered into the System directly by the Electronic Access Member or by the solicited party (either directly or through another Member), if the Member fails to expose orders on the Exchange as required by Options 3, Section 22(e).

This rule text is repetitive of the provisions within current Options 3, Section 22(c). The Exchange is clearly providing within Options 3, Section 22(c) that a Member must expose an order for one second. Further, the

through, Phlx re-prices an order that would cause a locked or crossed market violation or would cause a trade-through violation to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one minimum price variance above (for offers) or below (for bids) the national best price. While GEMX will not execute an order at a price that trades through another market or display an order at a price that would lock or cross another market, GEMX does not re-price orders. GEMX Members may specify that a Non-Customer order should instead be cancelled automatically by the System at the time of receipt.

[11] *See* Options 3, Section 11(b) and (c).

[12] *See* Options 3, Section 13.

[13] *See* Options 3, Section 12(c) and (d).

[14] *See* Options 3, Section 12(a) and (b).

[15] *See* Options 3, Section 11(d) and (e).

[16] *See* NOM Rules at Chapter VII, Section 12 at Commentary .04.

Member cannot inform another Member or third party of the terms of the order, which would be a violation of the rule pursuant to proposed Options 3, Section 22(c). The Exchange does not believe that the rule text within Supplementary Material .02 to Options 3, Section 22 provides additional information, but rather is repetitive of the prohibitions within the rule, as proposed.

The Exchange proposes to update the rule citations in Supplementary Material .01 to Options 3, Section 22 to refer to paragraph ''b'' instead of ''d''. The Exchange proposes to update the rule numbers for the remainder of the Rule and also update the cross-reference in Supplementary Material .04 to Options 3, Section 22.

The Exchange proposes to make clear with this Rule that Members may not gain by failing to expose orders submitted on an agency basis. The Exchange is promoting transparency of orders to prevent Members from seeking price discovery and potentially preventing price improvement, which may result from exposing an order. The Exchange's proposal to amend Options 3, Section 22 will conform this Rule to other Nasdaq affiliated markets filing similar rules.[17] The Exchange's proposal to add rule text to describe potential violations of this Rule will bring greater clarity to current limitations that exist when entering orders. The amendments to Options 3, Section 22 are consistent with the Act because the Rule provides a list of limitations when entering order on the Exchange. The Exchange believes the proposed rule will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because it will continue to make clear the requirement to expose orders as well as present more specific limitations on order entry which would violate Exchange Rules. Providing Members with more information as to the type of behavior that is violative with respect to order exposure will prevent inadvertent violations of Exchange rules and ensure that orders are subject to appropriate price discovery.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[18] in general, and furthers the objectives of Section 6(b)(5) of the Act,[19] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Options 3, Section 4, Acceptance of Quote and Orders

The Exchange's proposal to add a new section (b) to Options 3, Section 4 to describe the current requirements and conditions for submitting quotes are consistent with the Act. The Exchange is memorializing its current practice by reflecting the various requirements and limitations for quote entry in one rule for ease of reference and clarity. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges. Making clear the manner in which Market Makers may generate and submit option quotations will provide these market participants with clear guidance within the rules. The Exchange notes that other rules already limit the use of quotations on the Exchange. Options 2, Section 5 makes clear that Market Makers may submit quotes.[20] Supplementary Material .03(c) to Options 3, Section 7 describes the SQF interface.[21] Options 2, Section 4(b)(4) provides the allowable spread for entering bids and offers on the Exchange. Further, the Exchange is making clear that only one quote may be submitted at a time for a series. The Exchange believes that memorializing these restrictions will bring greater clarity to the Exchange's rules. Also, the Exchange believes that making clear that quotes may be entered as specified by the Exchange makes clear that all Market Makers are subject to uniform requirements for quoting.

The Exchange's proposal to add a provision regarding Firm Quote within new Options 3, Section 4(b)(5) will bring greater transparency to the limitations that Market Makers have today with respect to firm quote. GEMX's Options 2, Section 5(d) describes firm quote for purposes of Market Maker quote submission. The Exchange is proposing to add rule text to provide context as to this restriction for submitting quotes. The proposed rule text makes clear the manner in which Firm Quote relief is applied. The Exchange believes it is consistent with the Act to provide greater detail as to the current obligations for Market Makers with respect to firm quote. The addition rule text is consistent with the Act because the Exchange is adding detail regarding the method in which orders which are firm or locked and crossed will be handled in the System. The notifications for Firm Quote are made clear with the proposed rule text. The Exchange believes that it is consistent with the Act to specify when quotes are firm and the handling of such quotes by the System for the protection of investors and the general public. The clarity is designed to promote just and equitable principles of trade by notifying all participants engaged in market making of potential outcomes. Further, the Exchange's proposal to add more detail at proposed new Options 3, Section 4(b)(6) regarding trade-through and locked and crossed markets is consistent with the Act. Today, quotations may not be executed against at prices that trade-through an away market. Also, quotations may not lock or cross an away market. Also, quotations may not lock or cross an away market. By stating this limitation in the rule, Members will have greater clarity as to this limitation. The repricing of quotations is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. The Exchange's proposal to note that quotes are subject to minimum increments provided for in Options 3, Section 3 and risk protections provided for in Options 3, Section 15 is consistent with the Act because this rule brings greater transparency to these requirements which are already noted in the aforementioned rules. Options 2, Section 5(b)(1) similarly requires a Market Maker to quote in the minimum increments specified in Options 3, Section 3. Options 3, Section 15, titled ''Simple Order Risk Protections'' provides a list of all protections applicable to quotes that may cause an order to be rejected. The Exchange believes that this rule will provide Market Makers with requirements and conditions for submitting quotations and provide transparency as to limitations that cause a quote to be rejected.

The Exchange's proposal to make clear that quotes will be displayed in the System as described in Options 3, Section 23 is intended to bring greater transparency as to the data available on the Exchange. Options 3, Section 23,

[17] Nasdaq BX, Inc. and Nasdaq Stock Market LLC are also adopting similar rules to Phlx Rule 1097.

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(5).

[20] Options 2, Section 5(a) provides, ''Options Classes. A quotation only may be entered by a market maker, and only in the options classes to which the market maker is appointed under Options 2, Section 3.'' Options 2, Section 5(d) provides for Firm Quote.

[21] Supplementary Material .03(c) to Options 3, Section 7 provides ''Specialized Quote Feed'' or ''SQF'' is an interface that allows market makers to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses to the Exchange. Market Makers on GEMX can only submit quotes and orders through SQF in their assigned options series.

titled ''Data Fees and Trade Information'' provides for the available feeds that Members may access on the Exchange.

Options 3, Section 5, Entry and Display of Orders

The Exchange proposes to retitle Options 3, Section 5 as ''Entry and Display of Orders'' to describe the current requirements and conditions for entering orders, similar to proposed changes to Options 3, Section 5 for quotes is consistent with the Act because it will provide transparency as to manner in which orders may be submitted to the System. The Exchange's new rule text memorializes the current requirements for submitting orders into the System. Similar to proposed Options 3, Section 4, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference.

The Exchange's new rule text at Options 3, Section 5(a) proposes to make clear that multiple orders may be transmitted to the System as single or multiple price levels to add greater transparency to the Exchange's rules. The Exchange proposes to memorialize the manner in which orders may be submitted to the System to add more detail to its rules. For example, the time the System begins accepting orders, information concerning the time-stamp, which determines the time ranking of the order, as well as restrictions to order entry. Orders submitted to the System are subject to minimum increments specified in Options 3, Section 3 risk protections provided for in Options 3, Section 15, and the restrictions of any order type as provided for in Options 3, Section 7. The Exchange believes that listing the requirements and limitations is consistent with the Act because it will provide Members with the information necessary to process orders on GEMX. In addition, noting that parties may not agree to a mutual agreement for purposes that would cause another rule to be violated is consistent with the Act because it provides transparency to Members that certain behavior would cause a rule violation. The Exchange believes that this provision protects investors and the public interest because it specifically prohibits market manipulation within propose new rule. The Exchange's proposal to define both the Exchange's best bid and offer as the ''BBO'' is consistent with the Act because it provides context to the usage of these terms in the Rulebook. The Exchange notes, within Options 3, Section 7, the orders are displayed and non-displayed.

Further, the Exchange's proposal to add more detail at proposed new Options 3, Section 5(d) regarding trade-through and locked and crossed markets is consistent with the Act. Today, orders may not be executed against at prices that trade-through an away market. Also, orders may not lock or cross an away market. Routable orders must comply with Trade-Through and Locked and Crossed Markets restrictions. By stating this limitation in the rule, Members will have greater clarity as to this limitation. The rule also seeks to aggregate information relating to trading-through so as to provide Members with clear guidelines for submitting orders.

The Exchange's proposal to make clear that orders will be displayed in the System as described in Options 3, Section 23 is intended to bring greater transparency as to the data available on the Exchange. Options 3, Section 23 titled ''Data Fees and Trade Information'' provides for the available feeds that Members may access on the Exchange.

Options 3, Section 7, Types of Orders

The Exchange's proposal to amend Supplementary Material .03(c) to Options 3, Section 7 to make clear that Market Makers may only enter interest into SQF in their assigned options series is consistent with the Act. Options 2, Section 3, Appointment of Market Makers, describes the manner in which Market Makers are appointed in options series. This sentence simply provides that SQF may only be utilized for quoting in assigned options series.

Options 3, Section 15, Simple Order Risk Protections

The Exchange's proposal to relocate Options 3, Section 15(a) [22] into proposed new Options 3, Section 5(b) is consistent with the Act because this rule text relates to orders, which topic is described within new Options 3, Section 5. The proposal to relocate Size Limitation to make clear that this risk protection impacts orders and quotes will bring greater transparency to this risk protection.

[22] Options 5, Section 15(a) provides, ''NBBO Price Protection. Orders, other than Intermarket Sweep Orders (as defined in Options 5, Section 1(h)), will not be automatically executed by the System at prices inferior to the NBBO (as defined in Options 5, Section 1(j)). (1) Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 3; provided that Members may specify that a Non-Customer order should instead be rejected automatically by the System at the time of receipt. (2) There is no NBBO price protection with respect to any other market whose quotations are Non-Firm (as defined in Options 5, Section 1(k)).''

Options 3, Section 22, Limitation on Orders

The Exchange's proposal to amend Options 3, Section 22 to list all the exceptions to the exposure requirement is consistent with the Act because this rule change will bring greater clarity to the Rulebook. The Exchange is adding rule text currently contained in a NOM rule to describe the required period that orders are to be exposed.[23] The Exchange believes the additional language provided context and further explains the exceptions. The Exchange believes that this rule is consistent with the Act because with the addition of this language the rule more specifically describes the limitations to behavior on the Exchange with respect to order exposure and the necessity to conduct price discovery. The rule also describes behavior that would violate Options 3, Section 22 depending on the relationship of the parties and exchange of information. Listing all of the relevant mechanisms available on the Exchange will make clear the manner in which a Member may execute as principal orders they represent as agent. Further, explicitly excluding the Solicitation Mechanism will make clear that the particular auction is not an exception to the one second rule. The Exchange's proposal to relocate rule text to create topic headings and discuss each topic discretely will bring greater clarity to this rule text. The Exchange's proposal to add a new Options 3, Section 22(c) will make clear that a Member cannot inform another Member or any other third party of any of the terms of the order in violation of this rule. Options 9, Section 9, titled ''Prevention of the Misuse of Material Nonpublic Information,'' prohibits such activity today. This rule text is contained in NOM Rules.[24] The Exchange desires to conform the language in this rule to that of affiliated Nasdaq markets. Finally, updating the cross-references will make clear the manner in which a Member may enter orders on the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Options 3, Section 4, Acceptance of Quote and Orders

The Exchange's proposal to add a new section (b) to Options 3, Section 4 to describe the current requirements and

[23] *See* Chapter VII, Section 12.

[24] *See* Chapter VII, Section 12 at Commentary .04.

conditions for submitting quotes does not impose an undue burden on competition because the Exchange is memorializing its current practice by reflecting the various requirements and limitations in one rule for ease of reference and clarity and all Market Makers are subject to the these requirements today. The Exchange is memorializing its current practice by reflecting the various requirements and limitations for quote entry in one rule for ease of reference and clarity. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges.

Options 3, Section 5, Entry and Display of Orders

The Exchange's proposed new Options 3, Section 5 describes the requirements and conditions pursuant to which Members can enter orders into the System. The Exchange's proposal does not impose an undue burden on competition because it applies uniformly to all Members. This rule memorializes the manner in which orders may be submitted to the System and provides transparency as to manner in which orders may be submitted to the System. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges.

Options 3, Section 7, Types of Order

The Exchange's proposal to amend Supplementary Material .03(c) to Options 3, Section 7 to make clear that Market Makers may only enter interest into SQF in their assigned options series does not impose an undue burden on competition, rather it makes clear that SQF may only be utilized for quoting in assigned options series. This rule is applicable to all Market Makers.

Options 3, Section 15, Simple Order Risk Protections

The Exchange's proposal to relocate Options 3, Section 15(a) into proposed new Options 3, Section 5(b) does not impose an undue burden on competition because this rule text relates to orders, which topic is described within new Options 3, Section 5. Relocating the Size Limitation protection to another section of the rule to make clear it applies to quotes and orders will bring greater transparency to this rule.

Options 3, Section 22, Limitation on Orders

The Exchange's proposal to amend Options 3, Section 22 to list all the exceptions to the exposure requirement does not impose an undue burden on competition because this rule change will bring greater clarity to the Rulebook. The Exchange's proposal to relocate rule text to create topic headings and discuss each topic discretely will bring greater clarity to this rule text. The Exchange's proposal to add a new Options 3, Section (c) will make clear the type of behavior that would cause a Member to violate Options 3, Section 22 when disclosing information to another Member or any other third party with respect to the terms of the order.

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 [25] and subparagraph (f)(6) of Rule 19b–4 thereunder.[26]

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–GEMX–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–GEMX–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 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–GEMX–2019–13, and should be submitted on or before October 28, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Jill M. Peterson,

Assistant Secretary.

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[25] 15 U.S.C. 78s(b)(3)(A)(iii).

[26] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change 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.

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87186; File No. SR–NASDAQ–2019–080]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Fees for the MIDP Routing Option

October 1, 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 18, 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, 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 proposes to adopt fees for the MIDP order routing option.

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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing [3] to adopt fees for the MIDP order routing option.[4] MIDP is an order routing [5] option under Rule 4758(a)(1)(A), which will allow members to seek midpoint liquidity on Nasdaq and other markets on the System routing table.[6] Specifically, the MIDP order routing option may be assigned only to a Non-Displayed Order Type [7] with a Midpoint Pegging Order Attribute.[8] An Order with MIDP to buy (sell) will check the System for available shares and then the remaining shares are routed to destinations on the System routing table [9] that support midpoint eligible orders with a limit price that is at the lesser (greater) of: (1) The current NBO (NBB); or (2) the Order's entered limit price (if applicable).[10] If shares remain unexecuted after routing, the Order returns to Nasdaq and will check the System for available shares, with remaining shares posted on the Nasdaq Book [11] as a Non-Displayed Order with a Midpoint Pegging Order Attribute (unless an IOC).[12]

The Exchange is proposing to adopt fees under Equity 7, Section 118(a) for use of the MIDP order routing option. First, the Exchange is proposing to adopt a fee of $0.0030 per share executed in securities of all three Tapes,[13] charged to a member entering an MIDP Order that routes and executes at venues with a protected quotation under Regulation NMS other than BX, or Nasdaq. Rule 600(b)(62) of Regulation NMS defines a protected quotation as a protected bid or a protected offer, which are defined as a quotation in an NMS stock that: (i) Is displayed by an automated trading center; [14] (ii) is disseminated pursuant to an effective national market system plan; and (iii) is

[3] The Exchange initially filed the proposed pricing changes on August 27, 2019 (SR–NASDAQ–2019–068). On September 9, 2019, the Exchange withdrew that filing and submitted a replacement filing (SR–NASDAQ–2019–076). On September 18, 2019, the exchange withdrew that filing and submitted this filing.

[4] *See http://www.nasdaqtrader.com/TraderNews.aspx?id=ETA2019-60; see also* Securities Exchange Act Release No. 86087 (June 11, 2019), 84 FR 28117 (June 17, 2019) (SR–NASDAQ–2019–050).

[5] Routing is an Order Attribute that allows a Participant to designate an Order to employ one of several Routing Strategies (also called ''routing options'') offered by Nasdaq, as described in Rule 4758; such an Order may be referred to as a ''Routable Order.'' Upon receipt of an Order with the Routing Order Attribute, the System will process the Order in accordance with the applicable Routing Strategy. In the case of a limited number of Routing Strategies, the Order will be sent directly to other market centers for potential execution. For most other Routing Strategies, including MIDP, the Order will attempt to access liquidity available on Nasdaq in the manner specified for the underlying Order Type and will then be routed in accordance with the applicable Routing Strategy. Shares of the Order that cannot be executed are then returned to Nasdaq, where they will (i) again attempt to access liquidity available on Nasdaq and (ii) post to the Nasdaq Book or be cancelled, depending on the Time-in-Force of the Order. *See* Rule 4703(f).

[6] The term ''System routing table'' refers to the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them. Nasdaq reserves the right to maintain a different System routing table for different routing options and to modify the System routing table at any time without notice. *See* Rule 4758(a)(1)(A).

[7] *See* Rule 4702(b)(3).

[8] Midpoint Pegging means Pegging with reference to the midpoint between the Inside Bid and the Inside Offer (the ''Midpoint''). *See* Rule 4703(d).

[9] The Order is routed sequentially to the various venues on the System routing table in the full amount. An Order with MIDP and a Minimum Quantity Order Attribute will similarly route to the venues sequentially.

[10] If the entered limit price of a buy (sell) Order entered with MIDP is less (greater) than the current Midpoint price, the Order will not be routed but will instead be posted on the Nasdaq Book as a Midpoint Peg Order (if not an IOC). Once on the Nasdaq Book, if the NBBO moves and the Order's limit price is equal to the midpoint of the NBBO, the Order would not subsequently route. If the NBBO updates so that a resting Order with MIDP should be updated to a new midpoint price, it will be routed again and if shares remain unexecuted after routing, the Order will check the System for available shares with remaining shares reposted to the Nasdaq Book.

[11] *See* Rule 4701(a).

[12] An Order with the MIDP routing option will only be accepted with a Time-in-Force of Market Hours DAY or IOC and may not be flagged to participate in any of the Nasdaq Crosses. Unexecuted shares of an order with the MIDP routing option will check the System for available shares with remaining shares posted on the Nasdaq Book (unless an IOC Order) as a Non-Displayed Order with a Midpoint Pegging Order Attribute.

[13] Securities listed on Nasdaq are Tape C securities, securities listed on NYSE are Tape A securities, and securities listed on exchanges other than Nasdaq and NYSE are Tape B securities (collectively, the ''Tapes'').

[14] Trading center is defined as a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent. *See* Rule 600(b)(82) of Regulation NMS. An automated trading center is a trading center that: (i) Has implemented such systems, procedures, and rules as are necessary to render it capable of displaying quotations that meet the requirements for an automated quotation set forth in Rule 600(b)(4) of Regulation NMS; (ii) identifies all quotations other than automated quotations as manual quotations; (iii) immediately identifies its quotations as manual quotations whenever it has reason to believe that it is not capable of displaying automated quotations; and (iv) has adopted reasonable standards limiting when its quotations change from automated quotations to manual quotations, and vice versa, to specifically defined circumstances that promote fair and efficient access to its automated quotations and are consistent with the maintenance of fair and orderly markets. *See* Rule 600(b)(5) of Regulation NMS.

an automated quotation that is the best bid or best offer of a national securities exchange, the best bid or best offer of The Nasdaq Stock Market, Inc., or the best bid or best offer of a national securities association other than the best bid or best offer of The Nasdaq Stock Market, Inc.[15] The Exchange is proposing to adopt a $0.0012 per share executed fee in securities of all three Tapes, charged to a member entering an MIDP Order that routes and executes at venues ineligible for a protected quotation under Regulation NMS. The Exchange is proposing to not charge members for entering an MIDP Order that routes and executes at BX.

The Exchange is also proposing to assess the applicable charges and credits under Equity 7, Sections 114 [16] and 118(a) to a member entering an MIDP Order that routes and executes at Nasdaq. Thus, a liquidity-removing MIDP Order on Nasdaq would be charged a fee based on the tier that the member qualifies for under the fee schedule of each of the Tapes for removing liquidity, and a liquidity-adding MIDP Order on Nasdaq would be provided a credit, depending on the tier that the member qualifies for under the fee schedule of each of the Tapes for providing liquidity. Last, the Exchange is proposing to assess the existing fee of 0.3% of the total transaction cost to a member with a MIDP Order in a security priced at less than $1 that receives an execution.[17]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[18] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[19] 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 Exchange believes that its proposal is reasonable, equitable and not unfairly discriminatory because the pricing proposed above for MIDP Orders is generally set at levels that the Exchange is assessed for the execution of such orders at away venues. The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to assess a $0.0030 per share executed fee for securities in all three Tapes priced at $1 or more per share to a member that enters an MIDP Order that routes and executes at venues with a protected quotation under Regulation NMS other than BX, or Nasdaq because, as an example, PHLX assesses a standard transaction charge of $0.0030 per share executed to a member organization that enters an order in a security that it trades priced at $1 or more per share that executes in Nasdaq PSX.[20] Similarly, CBOE BZX assesses a standard fee of $0.0030 per share executed for orders that remove liquidity.[21]

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to assess a fee of $0.0012 per share executed for securities in all three Tapes priced at $1 or more per share to a member that enters an MIDP Order that routes and executes at venues ineligible for a protected quotation under Regulation NMS because the Exchange is assessed various fees for the execution of such orders at away venues and the proposed fee is reflective of the value provided by the Exchange in providing this functionality and the overall fees assessed by such venues.

The Exchange believes that assessing no charge for an MIDP Order that routes and executes at BX is reasonable, equitable and not unfairly discriminatory because it is reflective of the fee assessed the Exchange for the execution of such orders at BX, which currently assesses no fee for an Order with Midpoint pegging that removes liquidity.[22] Similarly, the Exchange believes that it is reasonable, equitable and not unfairly discriminatory to apply the applicable charges as provided in Equity 7, Sections 114 and 118(a) to a member that enters an MIDP Order that routes and removes liquidity from Nasdaq because such fees are reflective of the fees that other similarly situated members would receive for execution of Orders on Nasdaq. For the same reason, the Exchange believes that it is reasonable, equitable and not unfairly discriminatory to apply the applicable credits as provided in Equity 7, Sections 114 and 118(a) to a member that enters an MIDP Order that routes and provides liquidity to Nasdaq.

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to assess the proposed charge for MIDP Orders in any Tape securities priced below $1 per share because it is consistent with what it currently charges for all orders in securities priced at less than $1 per share that execute on Nasdaq or at an away venue.[23] Last, the Exchange believes that the proposed pricing changes are equitable and not unfairly discriminatory because they will apply uniformly to all members.

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 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 proposed pricing for MIDP Orders are intended to recoup the Exchange's costs associated with providing routing services, which are wholly optional. As discussed above, the Exchange believes that its proposed pricing remains competitive with other equity exchanges, as they are reflective of the costs incurred by the Exchange in receiving executions of routed midpoint orders to the various venues. In addition, because the Exchange's routing services are the subject of competition, including price competition, from other exchanges and broker-dealers that offer routing services, as well as the ability of members to use their own routing capabilities, it is likely that the Exchange will lose market share as a result of the proposed fees if they are unattractive to market participants. In this regard, the Exchange notes that the proposed fees are similar to the RMPT and RMPL routing strategies of BYX and

[15] *See* Rule 600(b)(61) of Regulation NMS.

[16] Equity 7, Section 114 provides the Exchange's market quality incentive programs, which provide beneficial pricing in lieu of, or in addition to, the fees and credits provided under Equity 7, Section 118(a).

[17] *See* Equity 7, Section 118(b).

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(4) and (5).

[20] *See* PHLX Equity 7, Section 3.

[21] *See* Cboe BZX U.S. Equities Exchange Fee Schedule, available at *https://markets.cboe.com/us/equities/membership/fee_schedule/bzx/.*

[22] *See* BX Equity 7, Section 118(a).

[23] *See* Equity 7, Section 118(b).

EDGA,[24] respectively, which may be used with a Mid-Point Peg Order to check the exchanges' respective Systems for available shares and any remaining shares are then sent to destinations on their routing tables that support midpoint eligible orders. Accordingly, the Exchange does not believe that the proposed changes 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.[25]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (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–2019–080 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–2019–080. 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–NASDAQ–2019–080, and should be submitted on or before October 28, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–21732 Filed 10–4–19; 8:45 am]

BILLING CODE 8011–01–P

[24] *See* Cboe BYX U.S. Equities Exchange Fee Schedule (available at *https://markets.cboe.com/us/equities/membership/fee_schedule/byx/*) and Cboe EDGA U.S. Equities Exchange Fee Schedule (available at *https://markets.cboe.com/us/equities/membership/fee_schedule/edga/*).

[25] 15 U.S.C. 78s(b)(3)(A)(ii).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87184; File No. SR–NYSEAMER–2019–35]

Self-Regulatory Organizations; NYSE American LLC; Notice of Withdrawal of Proposed Rule Change To Amend the NYSE American Options Fee Schedule To Revise the Options Regulatory Fee

October 1, 2019.

On August 30, 2019, NYSE American LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Exchange's fee schedule to revise the Options Regulatory Fee charged for August 30, 2019. The proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[3] The proposed rule change was published for comment in the **Federal Register** on September 19, 2019.[4] The Commission received one comment letter on the proposal from the Exchange noting that it planned to withdraw File No. SR–NYSEAMER–2019–35.[5] On September 18, 2019, the Exchange withdrew the proposed rule change (SR–NYSEAMER–2019–35).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–21733 Filed 10–4–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87185; File No. SR–NYSEArca–2019–64]

Self-Regulatory Organizations; NYSE Arca Inc.; Notice of Withdrawal of Proposed Rule Change To Amend the NYSE Arca Options Fee Schedule To Revise the Options Regulatory Fee

October 1, 2019.

On August 30, 2019, NYSE Arca, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Exchange's fee schedule to revise the Options Regulatory Fee charged for August 30, 2019. The proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[3] The proposed rule change was published for comment

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] *See* Securities Exchange Act Release No. 86960 (September 13, 2019), 84 FR 49359.

[5] *See* Letter to Vanessa Countryman, Secretary, Commission, from Martha Redding, Associate General Counsel and Assistant Secretary, Exchange, dated September 17, 2019.

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] 15 U.S.C. 78s(b)(3)(A).

in the **Federal Register** on September 19, 2019.[4] The Commission received one comment letter on the proposal from the Exchange noting that it planned to withdraw File No. SR–NYSEArca–2019–64.[5] On September 18, 2019, the Exchange withdrew the proposed rule change (SR–NYSEArca–2019–64).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–21731 Filed 10–4–19; 8:45 am]

BILLING CODE 8011–01–P

[4] *See* Securities Exchange Act Release No. 86961 (September 13, 2019), 84 FR 49356.

[5] *See* Letter to Vanessa Countryman, Secretary, Commission, from Martha Redding, Associate General Counsel and Assistant Secretary, Exchange, dated September 17, 2019.

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33653; 812–14993]

Calvert Fund, et al.

October 2, 2019.

AGENCY: Securities and Exchange Commission (the ''Commission'').

ACTION: Notice.

Notice of application for an order under sections 6(c) and 17(b) of the Investment Company Act of 1940 (''Act'') for exemptions from section 17(a) of the Act, and under section 17(d) of the Act and rule 17d–1 thereunder to permit certain joint transactions.

SUMMARY OF APPLICATION: Applicants request an order (''Requested Order'') to permit certain registered investment companies to invest a portion of their assets in certain fixed rate notes issued in connection with a community investment program sponsored by an affiliated non-profit corporation.

APPLICANTS: Calvert Fund, Calvert Impact Fund, Inc., Calvert Management Series, Calvert Responsible Index Series, Inc., Calvert Social Investment Fund, Calvert Variable Series, Inc., Calvert World Values Fund, Inc. (collectively, the ''Calvert Funds''), and Calvert Research and Management (''CRM'' and, collectively with the Calvert Funds, the ''Applicants'').

FILING DATES: The application was filed on December 27, 2018 and amended on May 29, 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 October 28, 2019, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090. Applicants: the Calvert Funds, 1825 Connecticut Ave. NW, Suite 400, Washington, DC 20009 and Katy D. Burke, Calvert Research and Management, Two International Place, Boston, MA 02110.

FOR FURTHER INFORMATION CONTACT: Jill Ehrlich, Senior Counsel, at (202) 551–6819, or David J. Marcinkus, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. Each Calvert Fund is registered under the Act as an open-end management investment company that offers one or more series of shares. Calvert Fund, Calvert Management Series, and Calvert Social Investment Fund are each organized as a business trust under the laws of the Commonwealth of Massachusetts. Calvert World Values Fund, Inc., Calvert Responsible Index Series, Inc., Calvert Variable Series, Inc., and Calvert Impact Fund, Inc. are each organized as corporations under the laws of the state of Maryland. All of the Calvert Funds are advised by CRM, an investment adviser registered under the Investment Advisers Act of 1940 (the ''Advisers Act'').[1] CRM is a business trust established under the laws of the Commonwealth of Massachusetts.

2. Although each of the Calvert Funds has distinct investment objectives and policies, a guiding philosophy of each Calvert Fund is an interest in fostering environmental, social, and governance (''ESG'') initiatives by investing a small percentage of its net assets pursuant to special non-principal investment strategies, including high social impact (''HSI'') investment opportunities such as the CIN Program (as defined below). HSI investments may be made by the Calvert Funds in a variety of ways, including through the purchase of debt securities. The registration statement of any Fund relying on the Requested Order will include disclosure designed to inform investors about the risks that may be associated with HSI investing, including the fact that such investments may offer a rate of return below the market rate prevailing at the time of the investment.

3. Calvert Impact Capital, Inc. (''CIC'')[2] is a non-profit corporation that was organized for the purpose of, among other things, making loans to (and other investments in) organizations aligned with CIC's mission and increasing public awareness and knowledge of the concept of socially responsible investing. CIC focuses its work on offering investors the ability to support organizations that strengthen communities and sustain the planet. Applicants state that CIC is exempt from registration as an investment company under section 3(c)(10)(A) of the Act.

4. The Community Investment Notes Program (the ''CIN Program'') sponsored by CIC is designed to provide financing solutions to organizations seeking to address an array of social and environmental problems. In connection with the CIN Program, CIC issues notes[3]

[1] Applicants request that the order apply not only to the Applicants, but that it also extend to any other existing or future series of the Calvert Funds and to any existing or future registered investment management companies or series thereof (collectively with the Calvert Funds, the ''Funds'' and each a ''Fund'') that are, or may in the future be, advised by CRM or any entity controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with CRM, or any successor in interest to any such entity (each and collectively, the ''Adviser''). For purposes of the Requested Order, ''successor'' is limited to any entity that results from a reorganization into another jurisdiction or a change in the type of business organization. The Adviser of each Fund will be an investment adviser registered under the Advisers Act. All entities that currently intend to rely on the Requested Order have been named as Applicants, and any other entity that relies on the Requested Order in the future will comply with the terms and conditions of the application.

[2] Effective October 31, 2017, Calvert Social Investment Foundation, Inc. changed its legal name to Calvert Impact Capital, Inc.

[3] Applicants state that such notes are exempt from registration under section 3(a)(4) of the Securities Act of 1933.

with fixed rates of interest to domestic individuals and institutional investors (''Noteholders''). CIC currently offers the notes to investors with various set terms and interest rates. A potential investor can select the particular note in which it would like to invest from the current offerings based on the term of the note and corresponding fixed interest rate (currently ranging from zero to four percent). The operating expenses associated with the administration of CIC's CIN Program are treated by CIC as part of its general operating expenses, and there is no fee assessed upon Noteholders for their investment in the notes.

5. From 1998 to 2016, the Calvert Funds' HSI investments included the acquisition of notes (the ''Existing Notes'') issued through the CIN Program in accordance with an exemptive order issued by the Commission in 1998 (the ''1998 Order'').[4] The 1998 Order permitted certain Calvert Funds to invest a portion of their assets in the Existing Notes.[5] The Calvert Funds' former investment adviser, Calvert Investment Management, Inc. (''CIM'') was the adviser to the registrants relying on the 1998 Order. The Calvert Funds stopped relying on the 1998 Order to make additional investments in notes issued through the CIN Program following the purchase, on December 30, 2016, by CRM of substantially all of the business assets of CIM. Following this transaction, CRM became the Calvert Funds' investment adviser on December 31, 2016.

6. From 1998 to 2016, the Boards of Directors/Trustees (collectively, the ''Funds' Board'') of the Calvert Funds that invested in the Existing Notes and other HSI investments gained experience with respect to the oversight of HSI investing. CRM and the Funds' Board have determined that the ability to continue to invest through the CIN Program would be appropriate for the Calvert Funds, including making additional investments in notes issued by CIC through the CIN Program (such notes together with the Existing Notes, the ''Notes'').

7. The Funds' Board has authorized each Calvert Fund to invest up to 3% of its net assets in HSI investments. The decision to participate in the CIN Program would be made by the Adviser in a manner consistent with the investment objectives and policies adopted by the Funds' Board, disclosure provided to the Funds' shareholders, the fiduciary duties of the Adviser, and subject to the oversight of the Funds' Board. The Adviser would not receive any compensation for the Funds' investments in the Notes (aside from the potential impact on a Fund's asset-based advisory fee). Information about the Calvert Funds' investments in the CIN Program is presented to the Funds' Board on a quarterly basis, thereby mitigating potential conflicts that CRM may have with the CIN Program.

8. Responsibility for the business, property, and affairs of CIC is vested in its Board of Directors (the ''CIC Board''). The CIC Board and the Funds' Board share certain common trustees/directors, as described in the application. Currently, there is one common trustee/director between the CIC Board (comprised of thirteen directors) and the Funds' Board (comprised of eight directors/trustees). Further, CRM supports CIC in a number of ways. CRM has licensed use of the Calvert name to CIC and has committed to make an annual $250,000 donation to CIC in each of five consecutive years beginning in 2018. Additionally, in response to requests from intermediaries for information about impact investing or CIC, representatives of a limited purpose broker-dealer affiliated with CRM may direct such intermediaries to CIC.[6]

Applicants' Legal Analysis

In light of the overlapping Board members, the Calvert Funds' ownership in the Notes, and the other potential means of affiliation described in the application, CIC may be deemed to be an affiliated person of each of the Calvert Funds for purposes of section 17(a) and 17(d) of the Act. Additionally, because the Calvert Funds are affiliated persons of one another through their common investment adviser, each of the Funds might be deemed to be participating in a joint transaction with each other Fund through investments in the Notes within the scope of section 17(d). Applicants submit that the Requested Order would be consistent with the standards of sections 6(c), 17(b), and 17(d) of the Act and rule 17d–1 under the Act.

Applicants' Conditions

Applicants agree that the Requested Order will be subject to the following conditions:

1. The Funds' Board will be responsible for reviewing the CIN Program not less frequently than annually. The Funds may continue to participate in the CIN Program through investment in the Notes only if, at the time of such review, the Funds' Board concludes that (i) continued participation in the CIN Program by the Funds remains consistent with the investment objectives and policies of each of the Funds; and (ii) such participation is not on a basis that is less advantageous than that of other Noteholders of the same class.

2. The Funds will invest in the Notes only in accordance with the investment objectives, policies and restrictions of the applicable Fund as disclosed in its registration statement, and the Funds will not be permitted to acquire the Notes to an extent greater than that which is permitted under the terms of their prospectus at the time of such investment and any limits approved by those members of the Funds' Board who are not ''interested persons'' of the Funds as defined by section 2(a)(19) of the Act.

3. The Adviser will not invest in CIC by directly purchasing Notes for its own account. Neither the Adviser nor any entity controlling, controlled by, or under common control with (within the meaning of section 2(a)(9) of the Act) the Adviser will receive any compensation for the Funds' investment in the Notes or for services provided to CIC in connection with the Funds' investment in the Notes, provided that: (i) The market value of the Notes in which the Funds may, from time to time, invest will be included in the calculation of any investment advisory fee payable by a Fund to its Adviser pursuant to the terms of an investment advisory contract that satisfies the requirements of section 15(a) of the Act and subject to section 36 of the Act, where such fee is calculated based on a percentage of the average daily net assets of any such Fund; and (ii) in response to requests from intermediaries for information about impact investing or CIC, representatives of an entity affiliated with the Adviser may direct such intermediaries to CIC, provided that such activities would not affect the value of, or interest paid under the terms of, any Note purchased by a Fund in reliance on the Requested Order.

4. All Noteholders will participate in the income (losses) generated by the assets underlying the Notes in

[4] Investment Company Act Release Nos. 23306 (July 8, 1998) (notice) and 23376 (Aug. 4, 1998) (order).

[5] As of December 31, 2018, the Existing Notes held by the Calvert Funds represented $54.12 million of the approximately $410.10 million in notes issued pursuant to the CIN Program. This amount represents approximately 13% of the notes issued pursuant to the CIN Program and approximately 37% of the $145.81 million of notes maturing in 2019.

[6] Neither CRM nor the affiliated broker-dealer would receive any compensation in connection with the foregoing activity, and neither CRM nor the affiliated broker-dealer anticipates involvement in suitability determinations or in selling the Notes directly to individuals or organizations on an agency basis.

proportion to their respective investments.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–21810 Filed 10–4–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87194; File No. SR–CBOE–2019–064]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Rule Regarding How Complex Orders Are Processed Through the Solicitation Auction Mechanism (''C–SAM'' or ''C–SAM Auction''), and Move That Rule From the Currently Effective Rulebook to the Shell Structure for the Exchange's Rulebook That Will Become Effective Upon the Migration of the Exchange's Trading Platform to the Same System Used by the Cboe Affiliated Exchanges

October 1, 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 September 23, 2019, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the 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 the Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend its Rule regarding how complex orders are processed through the Solicitation Auction Mechanism (''C–SAM'' or ''C–SAM Auction''), and move that Rule from the currently effective Rulebook (''current Rulebook'') to the shell structure for the Exchange's Rulebook that will become effective upon the migration of the Exchange's trading platform to the same system used by the Cboe Affiliated Exchanges (as defined below) (''shell Rulebook''). The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In 2016, the Exchange's parent company, Cboe Global Markets, Inc. (formerly named CBOE Holdings, Inc.) (''Cboe Global''), which is also the parent company of Cboe C2 Exchange, Inc. (''C2''), acquired Cboe EDGA Exchange, Inc. (''EDGA''), Cboe EDGX Exchange, Inc. (''EDGX'' or ''EDGX Options''), Cboe BZX Exchange, Inc. (''BZX'' or ''BZX Options''), and Cboe BYX Exchange, Inc. (''BYX'' and, together with Cboe Options, C2, EDGX, 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 trading platform to the same system used by the Cboe Affiliated Exchanges, which the Exchange expects to complete on October 7, 2019. Cboe Options believes offering similar functionality to the extent practicable will reduce potential confusion for market participants.

In connection with this technology migration, the Exchange has a shell Rulebook that resides alongside its current Rulebook, which shell Rulebook will contain the Rules that will be in place upon completion of the Cboe Options technology migration. The Exchange proposes to add the provisions of its Rules regarding C–SAM Auctions, as proposed to be modified in this rule filing, to Rule 5.40 in the shell Rulebook.

The proposed rule change moves the provisions regarding SAM Auctions for complex orders from current Interpretation and Policy .01[5] to proposed Rule 5.40, and provides additional detail to the Rules, as well as makes certain additional changes. Current Interpretation and Policy .01 states complex orders may be executed through a SAM Auction at a net debit or net credit price provided the eligibility requirements in current Rule 6.74B(a) are satisfied and the Agency Order is eligible for a SAM Auction considering its complex order type, order origin code (*i.e.,* non-broker-dealer public customer, broker-dealers that are not Market-Makers or specialists on an options exchange, and/or Market-Makers or specialists on an options exchange), class, and marketability as determined by the Exchange. Order allocation is the same as in current Rule 6.74B(b)(2), provided that complex order priority rules applicable to bids and offers in the individual series legs of a complex order contained in current Rule 6.53C(d) or Interpretation and Policy .06, as applicable, will continue to apply.

The Exchange believes it will provide more clarity to the Rules to have a separate rule regarding how SAM Auctions apply to complex orders (''C–SAM Auctions''), and thus proposes to add Rule 5.40 to the shell Rulebook. As they are today, complex orders will continue to be processed and executed in a C–SAM Auction in a substantially similar manner as simple orders are processed and executed in an SAM Auction pursuant to Rule 5.39,[6] and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange proposed to delete Rule 6.74B, Interpretation and Policy .01 from current Rulebook in SR–CBOE–2019–063 (filed September 23, 2019).

[6] *See* current Rule 6.74B, Interpretation and Policy .01 (''complex orders may be executed through the [SAM] Auction at a net debit or net credit price'' with certain exceptions); *see also* Securities Exchange Act Release No. 57610 (April 3, 2008), 73 FR 19535, 19536 (April 10, 2008) (SR–CBOE–2008–14) (which approved current Rule 6.74B, Interpretation and Policy .01 and stated that the Exchange had ''developed an enhanced auction mechanism for larger-sized simple and complex Agency Orders that are to be executed against solicited orders'', which auction mechanism would not permit responds to be entered for the account of an options market-maker from another options exchange).

therefore proposed Rule 5.40 is substantially similar to Rule 5.39 in the shell Rulebook.[7]

The proposed rule change adds to the proposed introductory paragraph[8] that the Solicited Order may consist of one or more solicited orders.[9] This accommodates multiple contra-parties and increases the opportunities for customer orders to be submitted into a C–SAM Auction with the potential for price improvement, since the Solicited Order must stop the full size of the Agency Order. This has no impact on the execution of the Agency Order, which may already trade against multiple contra-parties depending on the final auction price, as set forth in proposed paragraph (e) (and current Rule 6.74B(b)(2) and Interpretation and Policy .01). The Exchange notes that with regard to order entry, the first order submitted into the system is marked as the initiating/agency side and the second order is marked as the contra-side. Additionally, the Solicited Order will always be entered as a single order, even if that order consists of multiple contra-parties who are allocated their portion of the trade in a post-trade allocation.[10]

The proposed rule change deletes the restriction that a solicited order cannot be for the account of any Market-Maker appointed in the class. Current Rule 6.74B, Interpretation and Policy .03, which applies to SAM Auctions of complex orders), imposes this restriction.[11] With respect to the simple markets, appointed Market-Makers have a variety of obligations related to providing liquidity and making competitive markets in their appointed classes. Therefore, prohibiting Market-Makers from being solicited in a simple SAM Auction may encourage those Market-Makers to provide liquidity in that auction to provide liquidity through responses, as well as quotes on the Book that may have the opportunity to execute against the Agency Order. Because Market-Makers have no obligations to provide liquidity to complex markets (and there is no quoting functionality available in the complex order book (''COB'')), appointed Market-Makers are on equal footing with all other market participants with respect to C–SAM Auctions. Permitting Market-Makers to be solicited provides all market participants with the opportunity to provide liquidity to execute against Agency Orders in C–SAM Auctions in the same manner (both through solicitation, responses, and interest resting on the COB).[12] Rule 5.38 in the shell Rulebook similarly does not restrict appointed Market-Makers from being solicited to participate on the contra-side of C–AIM Auctions.

The Exchange does not believe permitting an appointed Market-Maker to be solicited for a C–SAM Auction provides the Market-Maker with any advantages with respect to its potential quotes in the applicable series in the Simple Book. Rule 4.18 prohibits any TPH from misusing material nonpublic information, and requires TPHs to have policies and procedures designed to prevent the misuse of material nonpublic information. When a market participant is solicited to be the contra-side in a crossing auction, the knowledge of that auction is not yet public. If an appointed Market-Maker was solicited for a C–SAM Auction and modified its quotes in the Simple Book in the applicable series in response to that auction, the Exchange may determine that to be a violation of Rule 4.18 (which the Exchange intends to move to Rule 8.17 of the shell Rulebook with no substantive changes). Such an action would only impact C–SAM Auction execution prices if those quotes were at the BBO in the applicable series. This is true for any TPH solicited for a C–SAM Auction that modified the prices of any orders it has resting in the applicable legs in the Simple Book or in the applicable complex strategy resting in the COB, as C–SAM permissible execution prices are based on all interest resting in the Simple Book.

The proposed introductory paragraph for Rule 5.40 is the same as the corresponding paragraph for C–AIM Auctions (Rule 5.38 in the shell Rulebook), which is the Exchange's price improvement crossing auction for Agency Orders of all sizes and substantially similar to the Exchange's C–SAM Auctions, except C–AIM Auctions permit facilitations and customer-to-customer immediate crosses, while C–SAM Auctions only permit solicitations and do not permit customer-to-customer immediate crosses, as set forth above.[13]

Proposed Rule 5.40(a) sets forth eligibility requirements for a C–SAM Auction. Proposed Rule 5.40(a)(5) states the Trading Permit Holder that electronically submits an order into a C–SAM Auction (the ''Initiating TPH'') may not designate an Agency Order or Solicited Order as Post Only. A Post Only complex order is a complex order the System ranks and executes pursuant to Rule 5.33 in the shell Rulebook,[14]

[7] The Exchange recently proposed certain amendments to the simple SAM Auction, many of which the Exchange similarly proposes to apply to C–SAM Auctions. *See* SR–CBOE–2019–063 (filed September 23, 2019). The Exchange notes it proposed to delete all of current Rule 6.74B in that rule filing, and thus the proposed rule change merely adds all provisions that are applicable to C–SAM Auctions (as proposed to be amended) to the shell Rulebook.

[8] The proposed rule change also adds to the proposed introductory paragraph that for purposes of proposed Rule 5.40, the term ''SBBO'' means the synthetic best bid or offer on the Exchange at the particular point in time applicable to the reference. This is merely an addition of terminology used throughout the Rule, but has no impact on functionality.

[9] The Solicited Order cannot have a Capacity F for the same executing firm ID (''EFID'') as the Agency Order. *See* current Rule 6.74B, Interpretation and Policy .03. Because the Solicited Order cannot be facilitated by the Initiating TPH, the Exchange currently enforces this restriction through surveillance. The Exchange proposes to add these systematic blocks, but will continue to conduct surveillance for compliance with the rule that prevents the Solicited Order from being a facilitation. The Agency Order and Solicited Order cannot both be for the accounts of a customer. Current Rule 6.74B does not contain a similar prohibition. However, the Exchange believes it is appropriate for such customer-to-customer crosses to be submitted to a C–AIM Auction pursuant to Rule 5.38 in the shell Rulebook, as that rule contains a provision for Customer-to-Customer Immediate C–AIM Crosses.

[10] The Exchange notes that while other exchange rules do not specify whether the contra-side order in a solicitation auction mechanism may consist of multiple orders, the contra-side order for Qualified Contingent Cross Orders (see Rule 6.53 of the current Rulebook and Rule 5.6(c) of the shell Rulebook), which similarly have a minimum quantity requirement and are fully crossed against an Solicited Order that must be for a minimum number of contracts, may consist of multiple contra-side orders. *See also* Rule 5.38, introductory paragraph of the shell Rulebook (which permits the contra-side order for automated improvement mechanism auctions of complex orders (''C–AIM Auctions'') to consist of multiple solicited orders). However, Nasdaq ISE, LLC (''ISE'') Regulatory Information Circular 2014–013 states that the contra-side order submitted into a crossing mechanism (including the ISE solicited order mechanism) may consist of one or more parties.

[11] This restriction exists for simple SAM Auctions. *See* Rule 5.39, introductory paragraph in the shell Rulebook.

[12] *See* Rule 5.38 of the shell Rulebook (which permits appointed market-makers to be solicited for C–AIM Auctions); *see also* EDGX Options Rule 21.20; and NYSE American, LLC (''American'') Rule 971.2NY(a)(1) (which permits all users except customers from being solicited as the contra-party). As further discussed below, the Exchange will no longer restrict Users that may submit responses to C–SAM Auctions.

[13] The proposed introductory paragraph is also substantially the same as the introductory paragraph in Rule 5.39 in the shell Rulebook, which is the rule describing the Exchange's simple SAM Auction.

[14] The Exchange does not currently offer Post Only functionality, but will following the technology migration. *See* Rule 5.6(c) in the shell Rulebook (which describes Post Only functionality for simple orders). The Exchange intends to adopt a similar definition of Post Only for complex orders, which will be virtually identical to the definition of Post Only complex orders in the rules of Cboe Affiliated Exchanges. *See* C2 Rule 6.13(b)(5) and EDGX Options Rule 21.20(b) (which define a Post Only complex order as a complex order the System ranks and executes pursuant to C2 Rule 6.12 or EDGX Options Rule 21.20, respectively, or cancels

subjects to the Price Adjust process pursuant to Rule 5.32 in the shell Rulebook, or cancels or rejects (including if it is not subject to the Price Adjust process and locks or crosses a Protected Quotation of another exchange), as applicable (in accordance with User instructions), except the order or quote may not remove liquidity from the Book or route away to another Exchange. The Exchange does not currently offer Post Only order functionality, but will as of the technology migration.[15] The Exchange believes it is appropriate to not permit the Agency or Solicited Order to be designated as Post Only, as the purpose of a Post Only order is to not execute upon entry and instead rest in the COB, while the purpose of a C–SAM Auction is to receive an execution following the Auction but prior to entering the COB. Proposed Rule 5.40(a)(6) states the Initiating TPH may only submit an Agency Order to a C–SAM Auction after the COB opens. This is consistent with current functionality, as executions cannot occur prior to the opening of trading. The proposed rule change clarifies this in the Rule.

The proposed rule change moves the various other C–SAM Auction eligibility requirements to proposed paragraph (a) and makes nonsubstantive changes:

- The requirement that an Agency Order be in a class of options the Exchange designates as eligible for C–SAM Auctions moves from current Interpretation and Policy .01 to proposed subparagraph (a)(1).[16]
- The requirement that the Initiating TPH mark an Agency Order for C–SAM processing moves from current subparagraph (b)(1)(A) to proposed subparagraph (a)(2).
- The provision regarding the minimum size for Agency Orders moves from current Interpretation and Policy .03 to proposed subparagraph (a)(3) (the proposed rule change does not propose to amend the minimum size requirements. Additionally, the requirement that the Solicited Order be for the same size as the Agency Order moves from current subparagraphs (a)(2) and (a)(3) to proposed subparagraph (a)(3).[17]
- The provision regarding the minimum increment for the Agency Order and Solicited Order price moves from current subparagraph (a)(3) to proposed subparagraph (a)(4).

The proposed rule change also explicitly states that all of the eligibility requirements in proposed paragraph (a) must be met for a C–SAM Auction to be initiated, and that the System rejects or cancels both an Agency Order and Solicited Order submitted to a C–SAM Auction that do not meet the conditions in proposed paragraph (a). This is consistent with current functionality, and the proposed rule change is merely adding this detail to the Rule.

Proposed Rule 5.40(a) is the same as the corresponding paragraph for C–AIM Auctions in Rule 5.38(a) of the shell Rulebook, other than the minimum size requirement applicable to C–SAM Auctions.[18]

Proposed Rule 5.40(b) sets forth the requirements for the stop price of the Agency Order. It states the Solicited Order must stop the entire Agency Order at a price that satisfies the following:

- If the Agency Order is to buy (sell) and (a) the applicable side of the BBO on any component of the complex strategy represents a Priority Customer order on the Simple Book, the stop price must be at least one minimum increment better than the SBB (SBO); or (b) the applicable side of the BBO on each component of the complex strategy represents a non-Priority Customer order or quote on the Simple Book, the stop price must be at or better than the SBB (SBO). This ensures the execution price of the Agency Order will improve the SBBO if there is a Priority Customer order in any of the legs on the Simple Book. The proposed rule change protects Priority Customers in any of the component legs of the Agency Order in the Simple Book. By permitting a Priority Customer Agency Order to trade at the SBBO if there is a resting non-Priority Customer order in the Book, the proposed rule change also protects Priority Customer orders submitted into a C–SAM Auction. The Exchange believes the proposed rule change is consistent with general customer priority principles.[19]
- If the Agency Order is to buy (sell) and a buy (sell) complex order rests on the COB, the stop price must be at least one minimum increment better than the bid (offer) of the resting complex order, unless the Agency Order is a Priority Customer order and the resting order is not a Priority Customer, in which case the stop price must be at or better than the bid (offer) of the resting complex order. This ensures the execution price of the Agency Order will improve the price of any resting Priority Customer complex orders on the COB, and that the execution price of a Priority Customer Agency Order will not be inferior to the price of any resting non-Priority Customer complex orders on the COB. The proposed rule change protects Priority Customers on the same side of the COB as the current rule does. By permitting a Priority Customer Agency Order to trade at the same price as a resting non-Priority Customer order, the proposed rule change also protects Priority Customer orders submitted into a C–SAM Auction. Application of this check at the initiation of a C–SAM Auction may result in the Agency Order executing at a better price, since the stop price must improve any same-side complex orders (with the exception of a Priority Customer Agency Order and a resting non-Priority Customer order described above). The proposed rule change is consistent with general customer priority principles.[20]
- If the Agency Order is to buy (sell) and (a) the BBO of any component of the complex strategy represents a Priority Customer order on the Simple Book, the stop price must be at least one minimum increment better than the SBO (SBB), or (b) the BBO of each component of the complex strategy

or rejects, as applicable (in accordance with the User's instructions), except the order may not remove liquidity from the COB or the Simple Book. The System cancels or rejects a Post Only market complex order unless it is subject to each exchange's drill-through protection.

[15] *See* Cboe Options Rule 5.6(c) in the shell Rulebook; *see also* Securities Exchange Act Release No. 86173 (June 20, 2019), 84 FR 30267 (June 26, 2019) (SR–CBOE–2019–027) (which filing added the Post Only order instruction to the shell Rulebook).

[16] The proposed rule change deletes the provisions that the Agency Order be an order type, have a Capacity (currently referred to as origin code), or meet marketability criteria determined by the Exchange, as the current and proposed rule explicitly state any applicable eligibility parameters. The Exchange will announce all determinations it may make with respect to a C–SAM Auction pursuant to Rule 1.5 in the shell Rulebook.

[17] The proposed rule change deletes the requirement that the Initiating TPH must designate the orders submitted into a C–SAM Auction as all-or-none (''AON''), as the C–SAM functionality will automatically handle any orders submitted to the Exchange on a C–SAM message as AON. Therefore, the proposed rule change indicates in proposed subparagraph (a)(3) that the System will handle each order submitted into a C–SAM Auction as AON.

[18] Proposed paragraph (a) is also substantially the same as the corresponding eligibility requirements for simple SAM Auctions in Rule 5.39(a) of the shell Rulebook, except the proposed rule change does not provide that an Initiating TPH may not submit an Agency Order if the NBBO is crossed (unless the Agency Order is a SAM Sweep order). As noted above, there is no NBBO for complex orders, and the legs of complex orders are not subject to the restriction on NBBO trade-throughs. Additionally, the proposed rule change references the opening of the COB rather than the market open, as the opening of the COB is when complex orders may begin trading.

[19] *See also* Rule 5.38(b)(1) of the shell Rulebook. General principles of customer priority ensure the execution price of complex orders will not be executed at prices inferior to the SBBO or at a price equal to the SBBO when there is a Priority Customer at the BBO for any component.

[20] *See also* Rule 5.38(b)(2) of the shell Rulebook.

represents a non-Priority Customer order on the Simple Book, the stop price must be at or better than the SBO (SBB). This ensures the execution price of the Agency Order will improve the price of any Priority Customer orders resting in the Simple Book at the opposite side of the SBBO, and not be through the opposite side of the SBBO.[21]

• If the Agency Order is to buy (sell) and the best-priced sell (buy) complex order on the COB represents (a) a Priority Customer complex order, the stop price must be at least one minimum increment better than the SBO (SBB); or (b) a complex order that is not a Priority Customer, the stop price must be at or better than the price of the resting complex order. This ensures the execution price of the Agency Order will improve the price of any Priority Customer complex orders resting in the COB at the same price as the stop price, and not be through the price of any other complex order resting in the COB.[22]

These proposed price checks are consistent with the permissible execution prices as set forth in proposed paragraph (e), as described below.

Proposed paragraph (c) describes the C–SAM Auction process. Pursuant to proposed subparagraph (c)(1), one or more C–SAM Auctions in the same complex strategy may occur at the same time. C–SAM Auctions in different complex strategies may be ongoing at any given time, even if the complex strategies have overlapping components. A C–SAM Auction may be ongoing at the same time as a SAM Auction in any component of the complex strategy.

To the extent there is more than one C–SAM Auction in a complex strategy underway at a time, the C–SAM Auctions conclude sequentially based on the exact time each C–SAM Auction commenced, unless terminated early pursuant to proposed Rule 5.40(d). In the event there are multiple C–SAM Auctions underway that are each terminated early pursuant to proposed paragraph (d), the System processes the C–SAM Auctions sequentially based on the exact time each C–SAM Auction commenced. If the System receives a simple order that causes both a SAM Auction and C–SAM Auction (or multiple SAM and/or C–SAM Auctions) to conclude pursuant to proposed Rules 5.39(d) and 5.40(d), the System first processes SAM Auctions (in price-time priority) and then processes C–SAM Auctions (in price-time priority). At the time each C–SAM Auction concludes, the System allocates the Agency Order pursuant to proposed paragraph (e) and takes into account all C–SAM Auction responses and unrelated orders in place at the exact time of conclusion.[23]

The Exchange believes it is appropriate to permit concurrent C–SAM Auctions in the same complex strategy for the same reasons it will permit concurrent C–AIM Auctions for larger-sized Agency Orders, and for the same reason it will permit concurrent simple SAM Auctions to occur. Different complex strategies are essentially different products, as orders in those strategies cannot interact, just as orders in different series or classes cannot interact. Similarly, while it is possible for a complex order to leg into the Simple Book, a complex order may only execute against simple orders if there is interest in each component in the appropriate ratio for the complex strategy. A simple order in one component of a complex strategy cannot on its own interact with a complex order in that complex strategy. Therefore, the Exchange believes it is appropriate to permit concurrent SAM and C–SAM Auctions that share a component. As proposed, C–SAM Auctions will ensure that Agency Orders execute at prices that protect Priority Customer orders in the Simple Book and that are not inferior to the SBBO at the conclusion of the C–SAM Auction, even when there are concurrent simple and complex auctions occurring. The proposed rule change sets forth how any SAM auctions with overlapping components will conclude if terminated due to the same event.

The Exchange notes it is currently possible for auctions in a component leg and a complex strategy containing that component (such as a simple SAM Auction in the component and a complex order auction (''COA'') in the complex strategy that contains that component) to occur concurrently, and at the end of each auction, it is possible for interest resting in the Simple Book to trade against the complex order subject to the COA. While these auctions may be occurring at the same time, they will be processed in the order in which they are terminated (similar to how the System will process auctions as proposed above). In other words, suppose today there is a SAM Auction in a series and a COA in a complex strategy for which one of the components is the same series both occurring, which began and will terminate in that order, and each of which lasts 100 milliseconds. While it is possible for both auctions to terminate nearly simultaneously, the System will still process them in the order in which they terminate. When the SAM Auction terminates, the System will process it in accordance with current Rule 6.74B (Rule 5.39 in the shell Rulebook), and the auctioned order may trade against any resting interest (and responses submitted to that SAM Auction, which may only trade against the order auctioned in that SAM current Rule 6.74B, or the contra-side order submitted to the SAM Auction (Rule 5.39 in the shell Rulebook)). The System will then process the COA Auction when it terminates, and the auctioned order may trade against any resting interest, including any simple interest that did not execute against the SAM order (in addition to the contra-side order and responses submitted to that COA Auction, which may only trade against the order auctioned in that COA), pursuant to current Rule 6.53C.

The proposed rule change moves and makes nonsubstantive changes to other provisions regarding the C–SAM Auction process to proposed paragraph (c):

• The proposed rule change moves the provision regarding the C–SAM Auction notification message (currently called a request for responses (''RFR'')) from current subparagraph (b)(1)(B) to proposed subparagraph (c)(2). The proposed provision specifies that the message will detail the side, size, price, Capacity, Auction ID, and complex strategy of the Agency Order to all Users that elect to receive C–SAM Auction notification messages. This is consistent with the current RFR that is disseminated. The current rule states that the RFR states the price, side, and size of the Agency Order; the proposed rule change adds details regarding other information that is included in the notification messages. The proposed rule change also adds that C–SAM Auction notification messages are not included in OPRA, which is also consistent with current functionality.

• The proposed rule change moves the provision regarding the length of the C–SAM Auction period from current subparagraph (b)(1)(C) to proposed subparagraph (c)(3). The proposed rule

[21] *See also* Rule 5.38(b)(3) of the shell Rulebook.

[22] There is no corresponding provision in Rule 5.38(b), because orders submitted into C–AIM auctions do not have AON contingencies, and Agency Orders submitted into those auctions may trade against both the contra-side order and other contra-side interest.

[23] *See also* Rule 5.38(c)(1) in the shell Rulebook (which also permits concurrent C–AIM Auctions for series with more than 50 contracts to occur in the same manner); and Rule 5.39(c)(1) (which permits concurrent SAM Auctions to occur in the same manner, except the proposed change adds how the System will handle ongoing auctions that include an overlapping component (whether that component is the subject of an ongoing simple SAM Auction or part of a complex strategy for which a different C–SAM Auction is ongoing).

change makes no changes to the current range of permitted lengths of C–SAM Auction periods.

• The proposed rule change clarifies in proposed Rule 5.40(c)(4) that the Initiating TPH may not modify or cancel an Agency Order or Solicited Order after submission to a C–SAM Auction. This is consistent with current functionality, and the proposed rule change merely adds this detail to the Rules.

The proposed rule change also moves all provisions regarding C–SAM Auction responses into proposed subparagraph (c)(5), as well as makes certain changes described below, as well as nonsubstantive changes:

• The proposed rule change moves the provision regarding which market participants may respond to C–SAM Auctions, as well as what must be specified in the responses (including price, size, side, and Auction ID) from current subparagraphs (b)(1)(B) and (C) to proposed subparagraph (c)(5). Currently, all TPHs may submit responses to an RFR, except response may not be entered for the account of an options market-maker from another options exchange. The Exchange proposes to permit all Users, except for the Initiating TPH (the response cannot have the same EFID as the Agency Order),[24] to respond to C–SAM Auctions. By permitting additional participants to submit responses to C–SAM Auctions, the Exchange believes this may provide the opportunity for additional liquidity in these auctions, which could lead to additional price improvement opportunities. The proposed rule change adds that a C–SAM response may only participate in the C–SAM Auction with the Auction ID specified in the response. This is consistent with current functionality. The Exchange proposes to include this language given the above proposal that permits concurrent C–SAM Auctions in the same complex strategies.

• The proposed rule change moves the provision regarding the permissible minimum increment for C–SAM responses from current subparagraph (b)(1)(E) to proposed subparagraph (c)(5)(A), but makes no substantive changes.

• Proposed subparagraph (c)(5)(B) states that C–SAM buy (sell) responses are capped at the following prices that exist at the conclusion of the C–SAM Auction: (i) The better of the SBO (SBB) or the offer (bid) of a resting complex order at the top of the COB; or (ii) one minimum increment lower (higher) than the better of the SBO (SBB) or the offer (bid) of a resting complex order at the top of the COB if the BBO of any component of the complex strategy or the resting complex order, respectively, is a Priority Customer order. The System executes these C–SAM responses, if possible, at the most aggressive permissible price not outside the SBBO at the conclusion of the C–SAM Auction or price of the resting complex order. This will ensure the execution price is at or better than the SBBO (or better than the SBBO if any component is represented by a Priority Customer order) or prices of resting complex orders (or better than the best-priced resting complex order if represented by a Priority Customer complex order) at the end of the C–SAM Auction as set forth in proposed Rule 5.40(e). Therefore, as proposed, the price at which any response may be entered (and thus be executed) will ultimately not be through the SBBO or the best-priced resting orders on the COB at the conclusion of the C–SAM Auction.

• Proposed subparagraph (c)(5)(C) states a User may submit multiple C–SAM responses at the same or multiple prices to a C–SAM Auction. This is consistent with current functionality. Current Rule 6.74B contains no restriction on how many responses a User may submit; the proposed rule change merely makes this explicit in the Rules. The proposed rule change also states for purposes of a C–SAM Auction, the System aggregates all of a User's complex orders on the COB and C–SAM responses for the same EFID at the same price. This (combined with the proposed size cap) will prevent a User from submitting multiple orders or responses at the same price to obtain a larger pro-rata share of the Agency Order.

• Proposed subparagraph (c)(5)(D) states the System caps the size of a C–SAM response, or the aggregate size of a User's complex orders on the COB and C–SAM responses for the same EFID at the same price, at the size of the Agency Order (*i.e.,* the System ignores size in excess of the size of the Agency Order when processing the C–SAM Auction). This is consistent with current subparagraph (b)(1)(F), except the proposed rule change caps the aggregate size of a User's interest at the same price, rather than the size of an individual response. The Exchange believes this is reasonable to prevent a User from submitting an order or response with an extremely large size in order to obtain a larger pro-rata share of the Agency Order.

• Proposed subparagraph (c)(5)(E) states C–SAM responses must be on the opposite side of the market as the Agency Order, and the System rejects a C–SAM response on the same side of the market as the Agency Order. This is consistent with current functionality, and the proposed rule change merely adds this detail to the rules. Additionally, the Exchange believes this is reasonable given that the purpose of a C–SAM response is to trade against the Agency Order in the C–SAM Auction into which the C–SAM response was submitted.

• The provision that states C–SAM responses are not visible to C–SAM Auction participants or disseminated to OPRA moves from current subparagraph (b)(1)(D) to proposed subparagraph (c)(5)(F).

• The provision that states C–SAM responses may be cancelled moves from current subparagraph (b)(1)(G) to proposed subparagraph (c)(5)(G). The proposed rule change also clarifies that C–SAM responses may be modified (which is consistent with current functionality and merely clarified in the rules).

Proposed Rule 5.40(c) is substantially similar to the corresponding provision applicable to C–AIM Auctions in Rule 5.38(c) of the shell Rulebook.

Pursuant to proposed Rule 5.40(d), a C–SAM Auction concludes at the earliest to occur of the following times:

• The end of the C–SAM Auction period;

• upon receipt by the System of an unrelated non-Priority Customer complex order on the same side as the Agency Order that would post to the COB at a price better than the stop price;

• upon receipt by the System of an unrelated Priority Customer complex order on the same side as the Agency Order that would post to the COB at a price equal to or better than the stop price;

• upon receipt by the System of an unrelated non-Priority Customer order or quote that would post to the Simple Book and cause the SBBO on the same side as the Agency Order to be better than the stop price;

• upon receipt by the System of a Priority Customer order in any component of the complex strategy that would post to the Simple Book and cause the SBBO on the same side as the Agency Order to be equal to or better than the stop price;

[24] The Exchange currently does not permit the Initiating TPH to respond to a C-SAM Auction, as that is the inconsistent with the purpose of the auction, which is to cross solicited interest, rather than facilitated interest. Similar to the restriction that the Solicited Order cannot be for the Initiating TPH, the Exchange currently enforces this restriction through surveillance. The Exchange proposes to add a systemic block, but will continue to conduct surveillance for oompliance with the rule that prevents the response from being for the Initiating TPH (so that a response cannot be used in place of a facilitation order).

• upon receipt by the System of a simple non-Priority Customer order that would cause the SBBO on the opposite side of the Agency Order to be better than the stop price, or a Priority Customer order that would cause the SBBO on the opposite side of the Agency Order to be equal to or better than the stop price;

• upon receipt by the System of an order that would case the SBBO to be a price not permissible under the Limit Up-Limit Down Plan or Regulation SHO, provided, however, that in such instance, the C–SAM Auction concludes without execution;

• the market close; and

• any time the Exchange halts trading in the complex strategy or any component of the complex strategy, provided, however, that in such instance, the C–SAM Auction concludes without execution.

The proposed events that would cause a C–SAM Auction to conclude early are the same as those that would cause a C–AIM Auction to conclude early (as is currently the case).[25]

The Exchange proposes to conclude the C–SAM Auction in response to the incoming orders described above, as they would cause the SBBO or the best-priced complex order on the same side of the market as the Agency Order to be better priced than the stop price, or cause the stop price to be the same price as the SBBO with a Priority Customer order on the BBO for a component or a Priority Customer complex order on the COB. Similarly, the incoming orders described above would cause the opposite side SBBO to be at or better than the stop price. These events would create circumstances under which a C–SAM Auction would not have been initiated, and therefore, the Exchange believes it is appropriate to conclude a C–SAM Auction when they exist.

Additionally, the proposed rule change would conclude a C–SAM Auction in response to an incoming order that would cause the SBBO to be at a price not permissible under the Limit Up-Limit Down Plan or Regulation SHO,[26] and would conclude the C–SAM Auction without execution. This will ensure that the stock leg of a stock-option order submitted into a C–SAM Auction does not execute at a price not permissible under that plan or regulation. This is consistent with current C–SAM functionality to ensure that stock legs do not trade at prices not permissible under the Limit Up-Limit Down Plan or Regulation SHO, and the proposed rule change codifies this in the Rules.

Proposed Rule 5.40(d)(2) states if the System receives an unrelated market or marketable limit complex order (against the SBBO or the best price of a complex order resting in the COB), including a Post Only complex order, on the opposite side of the market during a C–SAM Auction, the C–SAM Auction does not end early, and the System executes the order against interest outside the C–SAM Auction or posts the complex order to the COB. If contracts remain from the unrelated complex order at the time the C–SAM Auction ends, they may be allocated for execution against the Agency Order pursuant to proposed Rule 5.40(e). Because these orders may have the opportunity to trade against the Agency Order following the conclusion of the C–SAM Auction, which execution must still be at or better than the SBBO and the best-priced complex orders on the COB, the Exchange does not believe it is necessary to cause a C–SAM Auction to conclude early in the event the Exchange receives such orders. This will provide more time for potential price improvement, and the unrelated complex order will have the opportunity to trade against the Agency Order in the same manner as all other contra-side interest.[27]

At the conclusion of a C–SAM Auction, the System will execute the Agency Order against the Solicited Order or contra-side complex interest in a substantially similar manner as it does today.[28] The System will execute the Agency Order against the Solicited Order or contra-side complex interest (which includes complex orders on the COB and C–SAM responses) at the best price(s). Any execution price(s) must be at or between the SBBO and the best prices of any complex orders resting on each side of the COB at the conclusion of the C–SAM Auction.[29] This is consistent with executions following a C–SAM Auction today, which must be consistent with complex order priority rules.[30] Executions following a C–SAM Auction for a complex Agency Order are subject to the complex order price restrictions and priority in Rule 5.33(f)(2) of the shell Rulebook.[31] The System cancels or rejects any unexecuted C–SAM response (or unexecuted portions) at the conclusion of the C–SAM Auction, which is consistent with current functionality and the provision above, which provides that responses may only execute in the C–SAM Auction into which they are submitted.

The Agency Order will execute against the Solicited Order if there are no Priority Customer complex orders resting on the COB on the opposite side of the Agency Order at or better than the stop price and the aggregate size of contra-side interest at an improved price(s) is insufficient to satisfy the Agency Order.[32] The System will execute the Agency Order against contra-side interest (and will cancel the Solicited Order) if (a) there is a Priority Customer complex order resting on the COB on the opposite side of the Agency Order at or better than the stop price and the aggregate size of that order and other contra-side interest is sufficient to satisfy the Agency Order or (b) the aggregate size of contra-side interest at an improve price(s) is sufficient to satisfy the Agency Order.[33]

[25] *See* Rule 5.38(d) in the shell Rulebook and Rule 6.74B(b)(2) of the current Rulebook. The proposed events that will cause a C-SAM Auction to conclude early are also substantially as those that will cause a simple SAM Auction to conclude early, except they are based on the entry of simple or complex orders that impact the SBBO or the best available prices on the same side of the COB rather than the BBO.

[26] *See* current Rule 6.53C, Interpretation and Policy .06(f).

[27] This is the same as the corresponding provision for C–AIM Auctions (*see* Rule 5.38(d)(2) in the shell Rulebook), and similar to the corresponding provision for simple SAM Auctions (*see* Rule 5.39(d)(2) in the shell Rulebook).

[28] *See* Rule 5.38(e).

[29] Additionally, if there is a Priority Customer order representing any leg of the SBBO in the Simple Book, the execution price must be better than the SBBO, in accordance with complex order priority. *See* Rule 5.33(f)(2) in the shell Rulebook. Additionally, any execution price must be better than the price of any resting Priority Order complex order on the COB. As further discussed below, as proposed, an execution may only occur at such a price.

[30] *See* current Rule 6.74B(2)(A)(I) (which refers to the NBBO, but is applied as SBBO with respect to complex orders) and Interpretation and Policy .01; *see also* current Rule 6.53C(d) and Interpretation and Policy .06.

[31] *See* proposed Rule 5.40(e)(4) and current Rule 6.74B, Interpretation and Policy .01. Pursuant to Rule 5.33(f)(2) in the shell Rulebook, the System will not execute a complex order at a net price (i) that would cause any component of the complex strategy to be executed at a price of zero; (ii) worse than the SBBO or equal to the SBBO when there is a Priority Customer Order at the SBBO, except AON complex orders may only execute at prices better than the SBBO; (iii) that would cause any component of the complex strategy to be executed at a price worse than the individual component prices on the Simple Book; (iv) worse than the price that would be available if the complex order Legged into the Simple Book; or (v) that would cause any component of the complex strategy to be executed at a price ahead of a Priority Customer Order on the Simple Book without improving the BBO of at least one component of the complex strategy. The proposed execution provisions for C–SAM Auctions are consistent with this priority.

[32] *See* proposed Rule 5.40(e)(1) and current Rule 6.74B(b)(2)(A).

[33] *See* proposed Rule 5.40(e)(2) and current Rule 6.74B(b)(2)(A)(II) and (III). The Agency Order will execute against contra-side interest at each price level first against Priority Customer complex orders on the COB (in time priority) and then against remaining contra-side interest in a pro-rata manner.

The System will cancel an Agency Order and Solicited Order with no execution if:

- Execution of the Agency Order against the Solicited Order would not be (1) at or between the SBBO at the conclusion of the SAM Auction; (2) better than the SBBO if there is a Priority Customer order in any leg component in the Simple Book; (3) at or better than the best-priced complex resting on the COB; or (4) better than the best-priced complex order resting on the COB if it is a Priority Customer complex order;
- there is a Priority Customer complex order resting on the COB on the opposite side of the Agency Order at or better than the stop price, and the aggregate size of the Priority Customer complex order and any other contra-side interest is insufficient to satisfy the Agency Order; or
- there is a non-Priority Customer complex order resting on the COB on the opposite side of the Agency Order at a price better than the stop price, and the aggregate size of the resting complex order and any other contra-side interest is insufficient to satisfy the Agency Order.[34]

Unlike today, the Agency Order will only execute against the Solicited Order or C–SAM responses and complex orders resting in the COB, and will not leg into the Simple Book, at the conclusion of a C–SAM Auction. As proposed, the execution prices for an Agency Order will always be better than the SBBO existing at the conclusion of the C–SAM Auction if it includes a Priority Customer order on any leg, as well as better than the best-priced complex order resting on the COB if it is a Priority Customer complex order, and thus is consistent with general customer priority principles with respect to complex orders, pursuant to which complex orders may only trade against complex interest at prices that improve the BBO of any component that is represented by a Priority Customer order.[35]

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 complex auction 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 an auction for complex orders. The current priority following a C–SAM Auction provides that the System will first execute the complex order against all interest in the Simple Book, and then against interest in the COB.[36] If the Exchange were to permit legging into the Simple Book following a C–SAM Auction in accordance with the complex order allocation that will be in place following the technology migration, the System would first look to determine whether there are Priority Customer orders resting in the Simple Book at the final auction price(s) (and in the applicable ratio), and whether there was sufficient interest at improved prices to satisfy the Agency Order. The System would then look back at C–SAM responses and complex orders resting in the COB to determine whether there is interest at that price level that could execute against the Agency Order. Finally, the System would then look back at the Simple Book to determine whether any non-Priority Customer orders in the legs are able to trade against the Agency Order. The System would need to do this at each price level, and then determine whether there were any Priority Customer orders resting on the Simple Book that are part of the SBBO or COB at the stop price, and determine whether there was sufficient size at improved prices, or sufficient size with any Priority Customer orders at the stop price, to satisfy the Agency Order.

The amount of aggregate interest available to execute against the Agency Order is relevant in a C–SAM Auction with respect to the allocation of contracts against the Agency Order and other interest because of the all-or-none nature of the Agency Order. Because the System will not be able to determine the aggregate size of contra-side interest (including simple and complex) at improved prices, it would not be able to determine whether the Agency Order would execute against the Solicited Order or other contra-side interest.

The Exchange notes there would be significant technical complexities associated with reprogramming priority within the System to permit Agency Orders to leg into the Simple Book following a C–SAM Auction and allocate the Agency Order in a manner consistent with standard priority principles and crossing auctions, while making the most crossing functionality available to TPHs. The proposed rule change will ensure the Agency Order executes in accordance with the C–SAM allocation principles, which provide Priority Customers with priority over the Solicited Order (and other contra-side interest) but also provide for the Solicited Order to execute against the Agency Order if there is no price improvement and no Priority Customer interest present. The Exchange believes providing this functionality will encourage TPHs to submit large complex orders into C–SAM Auctions and provide customer orders with opportunities for price improvement. It will also ensure orders (including Priority Customer orders) on the Simple Book are protected in accordance with standard complex order priority principles, as an Agency Order will only be permitted to execute at prices that do not trade at the SBBO existing at the conclusion of the C–SAM Auction if it includes a Priority Customer order on any leg, and that do not trade through the SBBO existing at the conclusion of the C–SAM Auction.

As noted above, the stop price of the Agency Order must be better than the same and opposite side of the SBBO if there is a Priority Customer order at the BBO in any component of the complex strategy. Additionally, the stop price must be better than the price of any Priority Customer order resting at the top of the COB on either side of the Agency Order. Further, a C–SAM Auction concludes upon receipt of an unrelated Priority Customer order in any component of the complex strategy that would post to the Simple Book and cause the SBBO on either side of the Agency Order to be equal to or better than the stop price, or upon the receipt of an unrelated Priority Customer complex order on either side of the Agency Order that post to the COB with a price equal to or better than the stop price. Additionally, any execution prices at the conclusion of the C–SAM Auction are subject to the standard complex order priority, which will ensure an Agency Order must execute at a price that improves the SBBO if there is a Priority Customer order at the BBO in any leg.[37] Therefore, the proposed rule change protects Priority Customer orders in the Simple Book even though Agency Orders may not leg into the Simple Book.

Proposed Rule 5.40, Interpretations and Policies .01 and .02 are the same as current Rule 6.74B, Interpretations and Policies .02 and .03, which currently

[34] *See* proposed Rule 5.40(e)(3) and current Rule 6.74B(b)(2)(A)(I) and (II).

[35] *See* proposed Rule 5.40(e)(5).

[36] *See* current Rule 6.74B, Interpretation and Policy .01; *see also* current Rule 6.53C(d).

[37] If there was a Priority Customer order resting at the BBO in any leg of a complex strategy in the Simple Book, and a complex order was submitted to the Exchange (outside of a C–SAM Auction) with a price one minimum increment better than the SBBO, that complex order would not be able to execute against interest in the leg markets (including the Priority Customer order).

apply to C–SAM Auctions for complex orders.[38]

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.[39] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[40] 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)[41] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's C–SAM will function in a substantially similar manner following the technology migration as it does today. The proposed rule change clarifies in the Rules that the Solicited Order may be comprised of multiple contra-party orders will benefit investors. Permitting the Solicited Order to be comprised of multiple contra-party orders may increase the opportunity for customers to have orders participate in a C–SAM Auction. As a result, this may increase opportunities for price improvement, because this will increase the liquidity available for the Solicited Order, which is consistent with the purpose of C–SAM Auctions. The Exchange believes that this is beneficial to participants because allowing multiple contra-parties should foster competition for filling the Solicited Order and thereby result in potentially better prices, as opposed to only allowing one contra-party and, thereby requiring that contra-party to do a larger size order which could result in a worse price for the trade.

The proposed rule change to prohibit Initiating TPHs from designating an Agency Order or Solicited Order as Post Only is appropriate, as the purpose of a Post Only order is to not execute upon entry and instead rest in the Book, while the purpose of a C–SAM Auction is to receive an execution following the Auction but prior to entering the COB.

The proposed rule change to require the stop price to be at least one minimum increment better than the best-priced complex order in the COB, unless the Agency Order is a Priority Customer order and the resting order is not a Priority Customer, in which case the stop price must be at or better than the price of the complex order will protect investors. It will protect Priority Customer orders on the same side of the COB. By permitting a Priority Customer Agency Order to trade at the same price as a resting non-Priority Customer order, the proposed rule change also protects Priority Customer orders submitted into a C–SAM Auction. Additionally, application of this check at the initiation of a C–SAM Auction may result in the Agency Order executing at a better price, since the stop price must improve any same-side orders (with the exception of a Priority Customer Agency Order and a resting non-Priority Customer order described above). The proposed rule change is consistent with general customer priority principles.

As noted above, the proposed rule change will allow C–SAM Auctions to occur concurrently with other C–SAM Auctions. Although C–SAM Auctions will be allowed to overlap, the Exchange does not believe that this raises any issues that are not addressed by the proposed rule change. For example, although overlapping, each C–SAM Auction will be started in a sequence and with a time that will determine its processing. Thus, even if there are two C–SAM Auctions that commence and conclude, at nearly the same time, each C–SAM Auction will have a distinct conclusion at which time the Auction will be allocated. In turn, when the first C–SAM Auction concludes, unrelated orders that then exist will be considered for participation in the Auction. If unrelated orders are fully executed in such C–SAM Auction, then there will be no unrelated orders for consideration when the subsequent Auction is processed (unless new unrelated order interest has arrived). If instead there is remaining unrelated order interest after the first C–SAM Auction has been allocated, then such unrelated order interest will be considered for allocation when the subsequent Auction is processed. As another example, each C–SAM response is required to specifically identify the Auction for which it is targeted and if not fully executed will be cancelled back at the conclusion of the Auction. Thus, C–SAM responses will be specifically considered only in the specified Auction.

The proposed rule change to allow multiple auctions to overlap is consistent with functionality already in place on other exchanges.[42] Different complex strategies are essentially different products—orders in different strategies cannot interact, just as orders in different classes or series cannot interact. Therefore, the Exchange believes concurrent C–SAM Auctions in different complex strategies is appropriate. Additionally, while it is possible for a complex order to leg into the Simple Book, a complex order may only execute against simple orders if there is interest in each component in the ratio of the complex strategy. A simple order in one component of a complex strategy cannot on its own interact with a complex order in that complex strategy. Therefore, the Exchange believes it is appropriate to permit concurrent C–SAM Auctions in the same component. As proposed, C–SAM Auctions will ensure that Agency Orders execute at prices that protect Priority Customer orders in the Simple Book and that are not inferior to the SBBO, even when there are concurrent Auctions occurring. The proposed rule change sets forth how any Auctions with in overlapping complex strategies overlapping components will conclude if terminated due to the same event. The Rules do not currently prevent a COA in a complex strategy from occurring at the same time as an SAM in one of the components of the complex strategy. Therefore, the Exchange believes it is similarly reasonable to permit multiple C–SAM in a complex strategy to occur at the same time as a SAM in one of the components of the complex strategy. The Exchange believes this new functionality may lead to an increase in Exchange volume and should allow the Exchange to better compete against other markets that permit overlapping price improvement auctions, while providing an opportunity for price improvement for Agency Orders and assuring that Priority Customers on the simple Book and COB are protected.

The proposed events that will conclude a C–SAM Auction are reasonable and promote a fair and

[38] These provisions are also virtually identical to the ones applicable to simple SAM Auctions. *See* Rule 5.39, Interpretations and Policies .01 and .02 in the shell Rulebook.

[39] 15 U.S.C. 78f(b).

[40] 15 U.S.C. 78f(b)(5).

[41] *Id.*

[42] *See, e.g.,* EDGX Options Rule 21.21(c)(1); *see also, e.g.,* ISE Rule Options 3, Section 11(g); and Boston Options Exchange LLC (''BOX'') Rule 7270 and BOX IM–7150–3. The Exchange will also have rules that other auctions to occur concurrently following the technology migration. *See, e.g.,* Rules 5.37(c)(1), 5.38(c)(1), and 5.39(c)(1) of the shell Rulebook (which will permit concurrent AIM, C–AIM, and SAM Auctions, respectively).

orderly market and national market system, because they will ensure that executions at the conclusion of an Auction occur at permissible prices (such as not outside the SBBO (and not at the SBBO if there is a Priority Customer order in any component on the Simple Book) and not at the same price as a Priority Customer order on the COB). The proposed rule change will also benefit investors by providing clarity regarding what will cause a C–SAM Auction to conclude. These events would create circumstances under which a C–SAM Auction would not have been permitted to start, or that would cause the auction price no longer be consistent with the permissible prices at which executions at the conclusion of an Auction may occur. Thus the Exchange believes it is appropriate to conclude a C–SAM Auction if those circumstances occur. The Exchange will no longer conclude a C–SAM Auction early due to the receipt of an opposite side complex order other than one proposed instance. The Exchange believes this promotes just and equitable principles of trade, because these orders may have the opportunity to trade against the Agency Order following the conclusion of the Auction, which execution must still be at or better than the SBBO, as well as prices of complex orders in the COB. The Exchange believes this will protect investors, because it will provide more time for price improvement, and the unrelated order will have the opportunity to trade against the Agency Order in the same manner as all other contra-side complex interest.

Executions following the conclusion of a C–SAM Auction will occur in a substantially similar manner as they do today, except the Agency Order may not leg into the simple market to trade against simple orders in the legs. Pursuant Rule 5.33 in the shell Rulebook (which will govern the electronic trading of complex orders following the migration), if an order is able to leg into the Simple Book, the System would first execute an order against Priority Customer orders in the Simple Book, then against any complex order interest in the COB (or auction responses), and last against any other simple interest in the Simple Book (with executions against the Simple Book occurring in the applicable ratio). This would occur at each price at which the complex order may execute. Requiring the System to make these determinations by going ''back and forth'' between the Simple Book and the COB at multiple price levels would be more complicated after a C–SAM Auction. The System must determine the aggregate amount of interest available at each execution price level before executing any portion of the Agency Order to determine the final auction price and how to allocate the Agency Order against contra-side interest at the conclusion of a C–SAM Auction. This is necessary because the System must determine at each price level the aggregate non-Priority Customer interest to determine whether there is sufficient size of contra-side interest at improved prices and thus whether the Agency Order will execute against the Solicited Order or contra-side interest.

As noted above, there would be significant technical complexities associated with reprogramming priority within the System to permit Agency Orders to leg into the Simple Book following a C–SAM Auction [43] and allocate the Agency Order in a manner consistent with standard priority principles and crossing auctions, while making the most crossing functionality available to TPHs. Pursuant to the complex order priority principles in Rule 5.33(f)(2) in the shell Rulebook, if an order is able to leg into the Simple Book, the System first executes an order against Priority Customer orders in the Simple Book, then against any complex order interest in the COB (or auction responses), and last against any other simple interest in the Simple Book (with executions against the Simple Book occurring in the applicable ratio). This occurs at each price at which the complex order may execute. Requiring the System to make these determinations by going ''back and forth'' between the Simple Book and the COB at multiple price levels is more complicated after a C–SAM Auction. The System must determine the aggregate amount of interest available at each execution price level before determining whether the Agency Order will execute against the Solicited Order or contra-side complex interest.

As discussed above, the Exchange believes the proposed rule change protects Priority Customer orders on the Simple Book, because executions following a C–SAM Auction will be subject to the general complex order priority [44] that will apply to all executions of all complex orders on the Exchange. It ensures an Agency Order will only execute at prices better than the SBBO existing at the conclusion of the C–SAM Auction if there is a Priority Customer order at the BBO on any leg, and at prices equal to or better than the SBBO existing at the conclusion of the C–SAM Auction if there is no Priority Customer order at the BBO on any leg. The proposed allocation will also ensure the Agency Order does not trade at the same price as a Priority Customer complex order resting on the COB or through the best-priced complex orders on the COB, and will protect investors by providing Priority Customer complex orders with priority at each price level.

Given the infrequency with which complex orders currently leg into the Simple Book, the Exchange believes it is in the best interest of investors to not implement additional technical complexities given the expected minimal impact, if any, that not permitting Agency Orders to leg into the Simple Book following a C–SAM Auction would have on execution opportunities for orders in the Simple Book.[45]

The proposed rule change to permit all Users to respond to C–SAM Auctions will benefit investors, because it may result in more Users having the opportunity to participate in executions at C–SAM Auctions, which may lead to more opportunities to price improvement. 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 other exchanges permit all market participants to respond to similar price improvement auctions.[46]

The Exchange believes the proposed rule changes that add detail to the Rules, which are consistent with current functionality, will remove impediments to and perfect the mechanism of a free and open market and protect investors, as these changes provide transparency in the Rules regarding C–SAM Auctions. Additionally, the proposed rule change aligns rule language with corresponding provisions in the Exchange's other complex order price improvement crossing mechanism in Rule 5.38 of the shell Rulebook.

The proposed rule change is also consistent with Section 11(a)(1) of the Act [47] and the rules promulgated

[43] The Exchange notes AON complex orders will not be able to leg into the Simple Book due to the same technical complexities. *See* Rule 5.33 in the shell Rulebook.

[44] *See* proposed Rule 5.40(e)(4) and current Rule 6.74B, Interpretation and Policy .01.

[45] The Exchange notes the complex order crossing auction of at least one other options exchange does not leg agency orders into the simple book at the conclusion of the auction as long as there is price improvement over the equivalent of the SBBO for that exchange. *See, e.g.,* American Rule 971.2NY(c)(4).

[46] *See, e.g.,* EDGX Options Rule 21.21(c)(5).

[47] 15 U.S.C. 78k(a). Section 11(a)(1) prohibits a member of a national securities exchange from effecting transactions on that exchange for its own

Continued

thereunder. Generally, Section 11(a)(1) of the Act restricts any member of a national securities exchange from effecting any transaction on such exchange for (i) the member's own account, (ii) the account of a person associated with the member, or (iii) an account over which the member or a person associated with the member exercises investment discretion (collectively, referred to as ''covered accounts''), unless a specific exemption is available. Examples of common exemptions include the exemption for transactions by broker dealers acting in the capacity of a market maker under Section 11(a)(1)(A),[48] the ''G'' exemption for yielding priority to non-members under Section 11(a)(1)(G) of the Act and Rule 11a1–1(T) thereunder,[49] and ''Effect vs. Execute'' exemption under Rule 11a2–2(T) under the Act.[50]

The ''Effect vs. Execute'' exemption permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute transactions on the exchange. To comply with Rule 11a2–2(T)'s conditions, a member: (i) Must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution; [51] (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule. For the reasons set forth below, the Exchange believes that TPHs entering orders into a C–SAM would satisfy the requirements of Rule 11a2–2(T).

In the context of automated trading systems, the Commission has found that the off-floor transmission requirement is met if a covered account order is transmitted from a remote location directly to an exchange's floor by electronic means.[52] Because the Exchange's C–SAM Auction receives, and will continue to receive, orders from TPHs electronically through remote terminals or computer-to-computer interfaces, the Exchange believes that orders (as well as responses) submitted to the C–SAM Auction from off the Exchange's trading floor will satisfy the off-floor transmission requirement.[53]

The second condition of Rule 11a2–2(T) requires that neither a member nor an associated person of such member participate in the execution of its order once [sic]. The Exchange represents that, upon submission to the C–SAM Auction, an order or C–SAM response will be executed automatically pursuant to the rules set forth for C–SAM Auctions. In particular, execution of an order (including the Agency and Solicited Order) or a C–SAM response sent to the mechanism depends not on the TPH entering the order or response, but rather on what other orders and responses are present and the priority of those orders and responses. Thus, at no time following the submission of an order or response is a TPH or associated person of such TPH able to acquire control or influence over the result or timing of order or response execution.[54] Once the Agency Order and Solicited Order, or the response, as applicable, have been transmitted, the Initiating TPH that transmitted the orders, or the User that submitted the response, respectively, will not participate in the execution of the Agency Order or Solicited Order, or the response, respectively. No TPH, including the Initiating TPH, will see a C–SAM response submitted into C–SAM, and therefore and will not be able to influence or guide the execution of their Agency Orders, Solicited Orders, or C–SAM responses, as applicable.

Rule 11a2–2(T)'s third condition requires that the order be executed by an exchange member who is unaffiliated with the member initiating the order. The Commission has stated that the requirement is satisfied when automated exchange facilities, such as the C–SAM Auction are used, as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange.[55] The Exchange represents that the C–SAM Auction is designed so that no TPH has any special or unique trading advantage in the handling of its orders or responses after transmitting its orders to the mechanism.

A TPH (not acting in a market-maker capacity) could submit an order for a covered account from off of the Exchange's trading floor to an unaffiliated Floor Broker for submission for execution in the C–SAM Auction from the Exchange's trading floor and satisfy the effect-versus-execute exemption (assuming the other conditions are satisfied).[56] However, a TPH could not submit an order for a covered account to its ''house'' Floor Broker on the trading floor for execution and rely on this exemption. Because a TPH may not rely on the ''G'' exemption when submitting an order to a C–SAM Auction,[57] it would need to ensure another exception applies in this situation.

Rule 11a2–2(T)'s fourth condition requires that, in the case of a transaction effected for an account with respect to which the initiating member or an

account, the account of an associated person, or an account over which it or its associated person exercises discretion unless an exception applies.

[48] 15 U.S.C. 78k(a)(1)(A).

[49] 15 U.S.C. 78k(a)(1)(G) and 17 CFR 240.11a1–1(T).

[50] 17 CFR 240.11a2–2(T).

[51] The member may, however, participate in clearing and settling the transaction.

[52] *See, e.g.,* Securities Exchange Act Release Nos. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031) (approving BATS options trading); 59154 (December 23, 2008), 73 FR 80468 (December 31, 2008) (SR–BSE–2008–48) (approving equity securities listing and trading on BSE); 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080) (approving NOM options trading); 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131) (approving The Nasdaq Stock Market LLC); 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR–PCX–00–25) (approving Archipelago Exchange); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (SR–NYSE–90–52 and SR–NYSE–90–53) (approving NYSE's Off-Hours Trading Facility); and 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979) (''1979 Release'').

[53] A TPH may not enter an order for a covered account from on the trading floor and rely on the Effect v. Execute, and therefore another exception must apply. A TPH may not send an order for a covered account for an affiliated TPH on the floor and rely on the Effect v. Execute, and therefore another exception must apply.

[54] An Initiating TPH may not cancel or modify an Agency Order or Solicited Order after it has been submitted into C–SAM, but Users may modify or cancel their responses after being submitted into a C–SAM. *See* proposed Rule 5.40(c)(4) and (c)(5)(G). The Exchange notes that the Commission has stated that the non-participation requirement does not preclude members from cancelling or modifying orders, or from modifying instructions for executing orders, after they have been transmitted so long as such modifications or cancellations are also transmitted from off the floor. *See* Securities Exchange Act Release No. 14563 (March 14, 1978), 43 FR 11542, 11547 (the ''1978 Release'').

[55] In considering the operation of automated execution systems operated by an exchange, the Commission noted that, while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the system. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T). *See* 1979 Release.

[56] Orders for covered accounts that rely on the ''effect versus execute'' exemption in this scenario must be transmitted from a remote location directly to the Floor Broker on the trading floor by electronic means.

[57] *See* proposed Rule 5.40(e) (which describes the allocation of the Agency Order at the conclusion of the C–SAM Auction, which does not prioritize non-TPH broker-dealers, as would be required by the ''G'' exemption).

associated person thereof exercises investment discretion, neither the initiating member nor any associated person thereof may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2–2(T) thereunder.[58] The Exchange recognizes that TPHs relying on Rule 11a2–2(T) for transactions effected through the C–SAM Auction must comply with this condition of the Rule and the Exchange will enforce this requirement pursuant to its obligations under Section 6(b)(1) of the Act to enforce compliance with federal securities laws.

The Exchange believes that the instant proposal is consistent with Rule 11a2–2(T), and that therefore the exception should apply in this case. Therefore, the Exchange believes the proposed rule change is consistent with Section 11(a) of the Act and the Rules thereunder.

The proposed rule change is generally intended to align certain system functionality currently offered by Cboe Options to the Exchange's System 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. This will provide Users with greater harmonization of price improvement auction mechanisms available among the Cboe Affiliated Exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change to permit all Users to respond to C–SAM Auctions will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it will permit more types of market participants (*i.e.,* all Users) to submit responses to C–SAM Auctions. This may result in more Users having the opportunity to participate in executions at the conclusion of C–SAM Auctions. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it may increase liquidity in C–SAM Auctions, which may lead to more opportunities to price improvement. Additionally, other exchanges permit all market participants to respond to similar price improvement auctions.[59]

The Exchange does not believe the proposed rule change to amend the C–SAM Auction will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as the proposed changes to the C–SAM Auction will apply to all orders submitted to an Auction in the same manner. C–SAM Auctions will continue to be voluntary for TPHs to use, and are available to all TPHs. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because the proposed changes are substantially the same as another options exchange's rules. The general framework and primary features of the Exchange's current C–SAM Auction is not changing, and will continue to protect orders, including Priority Customer orders, resting in the Book and the COB.

The proposed rule change will provide continued consistency across the Exchange's (and the Cboe Affiliated Exchanges', as applicable) price improvement mechanisms. The general framework and primary features of the proposed C–SAM Auction process (such as the eligibility requirements, auction response period, same-side stop price requirements, response requirements, and auction notification process), are substantively the same as the framework for the Exchange's AIM, C–AIM, and SAM price improvement auctions, as recently proposed to be amended in connection with the Exchange's upcoming technology migration.[60] Other exchanges have similar complex order solicitation auction mechanisms.[61]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[62] and Rule 19b–4(f)(6) thereunder.[63]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[64] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[65] 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 Exchange may implement the proposed rule change at the time of its anticipated October 7, 2019 system migration. The Exchange notes that the proposed rule change is substantially similar to the Exchange's C–AIM Auction and SAM Auction (for simple orders) and similar to functionality on other options exchanges,[66] and that the C–SAM Auction will function in a substantially similar manner following the technology migration as it does today. The Exchange believes waiver of the operative delay would permit the Exchange to continue to provide the C–SAM functionality to market

[58] *See* 17 CFR 240.11a2–2(T)(a)(2)(iv). In addition, Rule 11a2–2(T)(d) requires a member or associated person authorized by written contract to retain compensation, in connection with effecting transactions for covered accounts over which such member or associated persons thereof exercises investment discretion, to furnish at least annually to the person authorized to transact business for the account a statement setting forth the total amount of compensation retained by the member in connection with effecting transactions for the account during the period covered by the statement which amount must be exclusive of all amounts paid to others during that period for services rendered to effect such transactions. *See also* 1978 Release, at 11548 (stating ''[t]he contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related compensation do so only after deciding that such arrangements are suitable to their interests'').

[59] *See, e.g.,* EDGX Options Rules 21.19(c)(5) and 21.21(c)(5); *see also* Rules 5.37(c)(5) and 5.38(c)(5) in the shell Rulebook.

[60] *See* Rules 5.37 through 5.39 in the shell Rulebook.

[61] *See, e.g.,* ISE Rule Options 3, Section 11(e).

[62] 15 U.S.C. 78s(b)(3)(A).

[63] 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.

[64] 17 CFR 240.19b–4(f)(6).

[65] 17 CFR 240.19b–4(f)(6)(iii).

[66] *See supra* notes 60 and 61.

participants on a continuous, uninterrupted basis. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.[67]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2019–064 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–2019–064. 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–CBOE–2019–064, and should be submitted on or before October 28, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[68]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–21724 Filed 10–4–19; 8:45 am]

BILLING CODE 8011–01–P

[67] 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).

[68] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87189; File No. SR–CBOE–2019–069]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Move the Rules in Chapter XII, Which Governs Margin Requirements, of the Currently Effective Rulebook to Proposed Chapter 10 of the Shell Structure for the Exchange's Rulebook

October 1, 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 September 30, 2019, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the 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 Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to move the Rules in Chapter XII, which governs margin requirements, of the currently effective Rulebook (''current Rulebook'') to proposed Chapter 10 of the shell structure for the Exchange's Rulebook that will become effective upon the migration of the Exchange's trading platform to the same system used by the Cboe Affiliated Exchanges (as defined below) (''shell Rulebook''). The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In 2016, the Exchange's parent company, Cboe Global Markets, Inc. (formerly named CBOE Holdings, Inc.) (''Cboe Global''), which is also the parent company of Cboe C2 Exchange, Inc. (''C2''), acquired Cboe EDGA Exchange, Inc. (''EDGA''), Cboe EDGX Exchange, Inc. (''EDGX'' or ''EDGX Options''), Cboe BZX Exchange, Inc. (''BZX'' or ''BZX Options''), and Cboe BYX Exchange, Inc. (''BYX'' and, together with Cboe Options, C2, EDGX, EDGA, and BZX, the ''Cboe Affiliated Exchanges''). The Cboe Affiliated

[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).

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 trading platform to the same system used by the Cboe Affiliated Exchanges, which the Exchange expects to complete on October 7, 2019. In connection with this technology migration, the Exchange has a shell Rulebook that resides alongside its current Rulebook, which shell Rulebook will contain the Rules that will be in place upon completion of the Cboe Options technology migration.

The Exchange proposes to relocate current Chapter XII which governs margin requirements, as well as current Rule 21.25 which governs margin requirements specifically for Government security options, to proposed Chapter 10 in the shell Rulebook. The Exchange notes that in addition to relocating the margin requirement rules to proposed shell Chapter 10, the proposed rule change deletes the rules from the current Rulebook. The proposed rule change relocates the rules as follows:

Shell rule	Current rule
10.1 Margin	12.1 General Rule.
10.2 Time Margin Must be Obtained	12.2 Time Margin Must be Obtained.
10.3 Margin Requirements	12.3 Margin Requirements.
10.4 Portfolio Margin	12.4 Portfolio Margin.
10.5 Determination of Value for Margin Purposes	12.5 Determination of Value for Margin Purposes.[5]
10.6 "When Issued" and "When Distributed" Securities	12.7 "When Issued" and "When Distributed" Securities.
10.7 Guaranteed Accounts	12.8 Guaranteed Accounts.
10.8 Meeting Margin Calls by Liquidation Prohibited	12.9 Meeting Margin Calls by Liquidation Prohibited.
10.9 Margin Required is Minimum	12.10 Margin Required is Minimum.
10.10 Compliance with Margin Requirements of NYSE	12.11 Compliance with Margin Requirements of NYSE.
10.11 Daily Margin Records	12.12 Daily Margin Records.
10.12 Government Security Options Margin Requirements	21.25 Margin Requirements.

The proposed changes are of a non-substantive nature and will not amend the relocated rules other than to update their numbers, conform paragraph structure and number/lettering format to that of the shell Rulebook, and make cross-reference changes to shell rules. The Exchange changes only the heading of shell Rule 10.12, as it believes that without such change, shell Chapter 10 would be exceedingly confusing to investors because shell Rule 10.2 could be easily conflated with shell Rule 10.3.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As stated, the proposed rule change makes no substantive changes to the rules. The proposed rule change is merely intended to relocate the Exchange's rules to the shell Rulebook and update their numbers, paragraph structure, including number and lettering format, and cross-references to conform to the shell Rulebook as a whole in anticipation of the technology migration on October 7, 2019. It also changes one rule heading so as to prevent investor confusion that would result from having the same rule headings for multiple rules under a single chapter. As such, the proposed rule change is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by improving the way the Exchange's Rulebook is organized, making it easier to read, and, particularly, helping market participants better understand the rules of the Exchange, which will also result in less burdensome and more efficient regulatory compliance.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended as a competitive change, but rather, seeks to make non-substantive rule changes in relocating the rules and updating cross-references to shell rules in anticipation of the October 7, 2019 technology migration, as well as updating one rule heading as to prevent investor confusion that would result from having rules with the same headings under a single chapter. The Exchange also does not believe that the proposed rule change will impose any undue burden on competition because the relocated rule text is exactly the same as the Exchange's current rules, all of which have all been previously filed with the Commission.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section

[5] The Exchange notes that Rule 12.6 was deleted January 15, 1975.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *Id.*

19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[11] normally does not become operative for 30 days after the date of its 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. The Exchange believes that waiver of the operative delay is appropriate because, as the Exchange discussed above, its proposal does not make any substantive changes to the Exchange Rules, but merely relocates Chapter XII, which governs margin requirements, to the shell Rulebook that the Exchange wishes to maintain post migration. Accordingly, its proposal is designed to preserve its hearings and review process rules after October 7, 2019. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal does not raise any new or novel issues and makes only non-substantive changes to the rules. Therefore, the Commission hereby waives the operative delay and designates the proposal 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.

[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. Because this proposal does not make any substantive changes to the rules but only moves them into the shell Rulebook, the Commission designates a shorter time under Rule 19b–4(f)(6)(iii) by waiving the five business prefiling period for this proposal.

[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).

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–2019–069 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2019–069.This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2019–069 and should be submitted on or before October 28, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87190; File No. SR–NYSEArca–2019–57]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change To List and Trade Shares of the Franklin Liberty Systematic Style Premia ETF, a Series of the Franklin Templeton ETF Trust Under NYSE Arca Rule 8.600–E

October 1, 2019.

I. Introduction

On August 8, 2019, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] a proposed rule change to list shares (''Shares'') of the Franklin Liberty Systematic Style Premia ETF (''Fund'') under NYSE Arca Rule 8.600–E. The proposed rule change was published for comment in the **Federal Register** on August 20, 2019.[4] The Commission has received no comments on the proposed rule change. This order approves the proposed rule change.

II. Summary of the Exchange's Description of the Proposed Rule Change[5]

The Exchange proposes to list and trade the Shares under NYSE Arca Rule 8.600–E, which governs the listing and trading of Managed Funds Shares on the Exchange. The Fund is a series of the Franklin Templeton ETF Trust (''Trust'').[6] Franklin Advisers, Inc. (''Adviser'') will be the investment adviser to the Fund.[7] Franklin

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 86659 (Aug. 8, 2019), 84 FR 43196 (''Notice'').

[5] For more information regarding the Fund and the Shares, *see* Notice, *supra* note 4.

[6] The Trust is registered under the Investment Company Act of 1940 (''1940 Act''). On July 31, 2019, the Trust filed a registration statement on Form N–1A relating to the Fund (File Nos. 333–208873 and 811–23124).

[7] The Exchange states that the Adviser is not registered as a broker-dealer but is affiliated with

Templeton Distributors, Inc. will be the distributor of the Shares. State Street Bank and Trust Company will be the custodian and transfer agent for the Fund. According to the Exchange, the Fund will seek to provide absolute return.

According to the Exchange, the Fund's portfolio will not meet the generic listing requirements of Commentary .01(e) to NYSE Arca Rule 8.600–E, which requires that, on both an initial and a continuing basis, no more than 20% of the assets in the Fund's portfolio may be invested in OTC derivatives (calculated as the aggregate gross notional value of the OTC derivatives). The Exchange states that the aggregate gross notional value of the Fund's investments in OTC derivatives is expected to exceed this limit. The Exchange states that, other than Commentary .01(e) to Rule 8.600–E, the Shares will meet all other requirements of Rule 8.600–E.

A. Principal Investments

According to the Exchange, under normal market conditions,[8] at least 80% of the Fund's assets will be invested in the securities and financial instruments described below.

The Fund may invest in the following derivatives: (1) Futures contracts on U.S. and foreign equity, interest rate/bond and commodity indices; (2) U.S. and foreign equity and commodity-linked total return swaps; and (3) currency forward contracts. The Fund may hold its commodity-linked derivative instruments indirectly through a wholly-owned subsidiary established in the Cayman Islands (''Subsidiary''). The Subsidiary will only invest in commodity-linked total return swaps and futures on commodity indices and will also hold any necessary cash or cash equivalents as collateral. No more than 25% of the Fund's total assets may be invested in the Subsidiary.

The Fund may hold cash and cash equivalents.[9]

The Fund may hold U.S. and foreign bonds (including convertible bonds), debentures and non-cash equivalent U.S. government securities (other than debt securities with variable interest rates, as referenced below).

The Fund may hold U.S. and foreign exchange-traded common stock, preferred stock (including convertible preferred stock), rights and warrants of U.S. and foreign companies.

The Fund may engage in short sales in securities and financial instruments in which the Fund may invest, including short sales ''against the box.'' [10]

B. Other Investments

While the Fund, under normal market conditions, will invest at least 80% of its assets in the securities and financial instruments described above, the Fund may invest its remaining assets in other assets and financial instruments, as described below.

The Fund may invest in ETFs.[11]

The Fund may invest in U.S. and foreign corporate debt.

The Fund may invest in foreign governmental and supranational debt securities.

The Fund may invest in U.S. and foreign exchange-listed and non-exchange-traded ''Depositary Receipts''.[12]

The Fund may invest in the following debt securities with variable interest rates: Floating rate, adjustable rate and inverse floating rate debt securities.

The Fund and the Subsidiary will not invest in securities or other financial instruments that have not been described in this proposed rule change.

C. Investment Restrictions

The Fund's investments, including derivatives, will be consistent with the Fund's investment objective and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage). That is, while the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*e.g.,* 2Xs and 3Xs) of the Fund's primary broad-based securities benchmark index (as defined in Form N–1A).[13]

D. Failure To Satisfy Commentary .01(e) to NYSE Arca Rule 8.600–E

Commentary .01(e) to Rule 8.600–E requires that an actively managed fund whose shares are generically listed must not invest more than 20% of its assets (calculated as the aggregate gross notional value of the OTC derivatives) in OTC derivatives on both an initial and a continuing basis.

The Exchange states that, based on the Fund's investment strategies, the Fund's exposure to foreign currency forward transactions and U.S. and foreign equity and commodity-linked total return swaps (which swaps will be traded OTC) is expected to exceed 20% of the Fund's assets.[14] According to the Exchange, this will provide the Fund with additional flexibility to manage risk associated with its investments. The Exchange states that, depending on market conditions, it may be critical that the Fund utilize available OTC swaps and currency forwards to efficiently gain exposure to equities, currencies and commodities, in furtherance of the Fund's investment objective. The Exchange states that because foreign currency forward transactions and total

a broker-dealer and has implemented and will maintain a fire wall with respect to such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. In the event (a) the Adviser becomes registered as a broker-dealer or newly affiliated with one or more broker-dealers, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

[8] The term ''normal market conditions'' is defined in NYSE Arca Rule 8.600–E(c)(5).

[9] The term ''cash equivalents'' is defined in Commentary .01(c) to NYSE Arca Rule 8.600–E.

[10] According to the Exchange, short sales ''against the box'' are transactions in which the Fund sells a security short but it also owns an equal amount of the securities sold short or owns securities that are convertible or exchangeable, without payment of further consideration, into an equal amount of such security.

[11] The Exchange states that, for purposes of this filing, ''ETFs'' are Investment Company Units (as described in NYSE Arca Rule 5.2–E(j)(3)); Portfolio Depositary Receipts (as described in NYSE Arca Rule 8.100–E); and Managed Fund Shares (as described in NYSE Arca Rule 8.600–E). All ETFs will be listed and traded in the U.S. on a national securities exchange. While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged (*e.g.,* 2X, –2X, 3X or –3X) ETFs.

[12] According to the Exchange, many securities of foreign issuers are represented by American Depositary Receipts (ADRs), Global Depositary Receipts (GDRs), and European Depositary Receipts (EDRs) (collectively, ''Depositary Receipts''). Generally, Depositary Receipts in registered form are designed for use in the U.S. securities market and Depositary Receipts in bearer form are designed for use in securities markets outside the U.S. ADRs evidence ownership of, and represent the right to receive, securities of foreign issuers deposited in a domestic bank or trust company or a foreign correspondent bank. Prices of ADRs are quoted in U.S. dollars, and ADRs are traded in the U.S. on exchanges or over-the-counter. EDRs and GDRs are typically issued by foreign banks or trust companies and evidence ownership of underlying securities issued by either a foreign or a U.S. corporation. EDRs and GDRs may not necessarily be denominated in the same currency as the underlying securities into which they may be converted. No more than 10% of the equity weight of the Fund's portfolio will be invested in non-exchange-traded ADRs.

[13] The Fund's broad-based securities benchmark index will be identified in a future amendment to the Registration Statement following the Fund's first full calendar year of performance.

[14] According to the Fund, the Adviser and its affiliates actively monitor counterparty credit risk exposure (including for OTC derivatives) and evaluate counterparty credit quality on a continuous basis.

return swaps will be traded OTC, it is not possible to implement these strategies efficiently using listed derivatives. According to the Exchange, swaps on equity securities may be an important means to reduce risk in the Fund's equity investments, or, depending on market conditions, to enhance returns of such investments. The Exchange states that, if the Fund were limited to investing up to 20% of assets in OTC derivatives, the Fund would have to exclude or underweight these strategies and would be less diversified, concentrating risk in its other strategies.

The Exchange states the proposed exception to Commentary .01(e) to Rule 8.600–E would be consistent with other funds that the Commission has approved for listing and trading on an exchange.[15]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the Act and rules and regulations thereunder applicable to a national securities exchange.[16] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[17] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

As noted above, the Exchange proposes that the aggregate gross notional value of the Fund's investments in OTC derivatives may exceed the 20% limit in Commentary .01(e) to NYSE Arca Rule 8.600–E. The Exchange believes that this exception is generally consistent with previous filings for the listing of ETFs approved by the Commission.[18] The Fund will disclose on its website information regarding the Disclosed Portfolio required under NYSE Arca Rule 8.600–E(c)(2) to the extent applicable. The Exchange represents that the Fund's disclosure of its derivative positions in the Disclosed Portfolio will include information that market participants can use to value the derivative positions intraday.[19] The website information will be publicly available at no charge.[20]

The Commission also believes that the proposal is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. Trading in the Shares will be halted if the circuit-breaker parameters in NYSE Arca Rule 7.12–E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Moreover, trading in the Shares will be subject to NYSE Arca Rule 8.600–E(d)(2)(D), which sets forth circumstances under which Shares may be halted.

The Exchange states that the Adviser is not registered as a broker-dealer but is affiliated with a broker-dealer and has implemented and will maintain a fire wall with respect to that broker-dealer affiliate regarding access to information concerning the composition of and/or changes to the Fund's portfolio. Further, the Commission notes that the Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the portfolio.[21] The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees.

The Commission also finds that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,[22] which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last-sale information for the Shares will be available via the CTA high-speed line. The Portfolio Indicative Value (''PIV'') for the Fund, as defined in NYSE Arca Rule 8.600–E(c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session.[23] Information regarding market price and trading volume for the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Quotation and last-sale information for portfolio holdings of the Fund that are U.S. exchange-listed, including common stocks, preferred stocks, warrants, rights, ETFs, and U.S. exchange-traded Depositary Receipts will be available via the CTA high speed line. Quotation and last sale information for such U.S. exchange-listed securities, as well as U.S. and foreign exchange-traded futures will be available from the exchanges on which they are listed and from major market data vendors. Quotation information for cash equivalents, bonds, debentures, swaps, foreign governmental and supranational debt securities, U.S. Government securities, debt securities with variable interest rates and U.S. and foreign corporate debt may be obtained from brokers and dealers who make markets in such securities or through nationally recognized pricing services through subscription agreements. The U.S. dollar value of foreign securities, instruments and currencies can be derived by using foreign currency exchange rate quotations obtained from nationally recognized pricing services. Price information for non-exchange-traded Depositary Receipts is available from major market data vendors.

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange represents that:

[15] *See, e.g.,* Securities Exchange Act Release Nos. 82492 (January 12, 2018), 83 FR 2850 (January 19, 2018) (SR–NYSEArca–2017–87) (approving a proposed rule change to list and trade shares of the JPMorgan Long/Short ETF under NYSE Arca Rule 8.600–E, which provides that the aggregate gross notional value of the Fund's investments in OTC derivatives may exceed 20%); 79683 (December 23, 2016), 81 FR 96539 (December 30, 2016) (SR–NYSEArca–2016–82); 77904 (May 25, 2016), 81 FR 35101 (June 1, 2016) (SR–NYSEArca–2016–17)

[16] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78f(b)(5).

[18] *See supra* note 15. *See also* Securities Exchange Act Release No. 82080 (November 15, 2017), 82 FR 55449 (November 21, 2017) (approving a proposed rule change to list and trade shares of the JPMorgan Managed Futures ETF under NYSE Arca Rule 8.600–E, which provides that the aggregate gross notional value of the investments in OTC derivatives may exceed 20% of the fund's assets).

[19] *See* Notice, *supra* note 4, 84 FR at 43199.

[20] *See id.*

[21] *See* NYSE Arca Rule 8.600–E(d)(2)(B)(ii).

[22] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[23] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available PIVs taken from the CTA or other data feeds. *See* Notice, *supra* note 4, 84 FR at 43201, n.20.

(1) Other than Commentary .01(e) to Rule 8.600–E, the Shares will meet all other requirements of Rule 8.600–E.

(2) A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.

(3) Trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, and these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.[24]

(4) The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, certain exchange-listed equity securities, certain futures, and certain exchange-traded options with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG''), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading such securities and financial instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in such securities and financial instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine.

(5) Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss: (a) The procedures for purchases and redemptions of Shares in creation units (and that Shares are not individually redeemable); (b) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) the risks involved in trading the Shares during the Early and Late Trading Sessions when an updated PIV will not be calculated or publicly disseminated; (d) how information regarding the PIV and the Disclosed Portfolio is disseminated; (e) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(6) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(7) For initial and continued listing, the Fund will be in compliance with Rule 10A–3 under the Act.[25]

(8) The Fund's investments, including derivatives, will be consistent with the Fund's investment objective and will not be used to enhance leverage. That is, while the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*e.g.,* 2Xs and 3Xs) of the Fund's primary broad-based securities benchmark index (as defined in Form N–1A).

The Exchange represents that all statements and representations made in the filing regarding: (1) The description of the portfolio holdings or reference assets; (2) limitations on portfolio holdings or reference assets; or (3) the applicability of Exchange listing rules specified in the rule filing constitute continued listing requirements for listing the Shares on the Exchange. In addition, the Exchange represents that the issuer must notify the Exchange of any failure by the Fund to comply with the continued listing requirements and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor[26] for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[27] and Section 11A(a)(1)(C)(iii) of the Act[28] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[29] that the proposed rule change (SR–NYSEArca–2019–57), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–21727 Filed 10–4–19; 8:45 am]

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[24] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[25] *See* 17 CFR 240.10A–3.

[26] The Commission notes that certain proposals for the listing and trading of exchange traded products include a representation that the exchange will ''surveil'' for compliance with the continued listing requirements. *See, e.g.,* Securities Exchange Act Release No. 77499 (April 1, 2016), 81 FR 20428, 20432 (April 7, 2016) (SR–BATS–2016–04). In the context of this representation, it is the Commission's view that ''monitor'' and ''surveil'' both mean ongoing oversight of compliance with the continued listing requirements. Therefore, the Commission does not view ''monitor'' as a more or less stringent obligation than ''surveil'' with respect to the continued listing requirements.

[27] 15 U.S.C. 78f(b)(5).

[28] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[29] 15 U.S.C. 78s(b)(1).

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87192; File No. SR–CBOE–2019–063]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Solicitation Auction Mechanism (''SAM'' or ''SAM Auction'')

October 1, 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 September 24, 2019, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the 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 the Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend the Solicitation Auction Mechanism (''SAM'' or ''SAM Auction''). The text of the proposed rule change is provided in Exhibit 5.

[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).

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

In 2016, the Exchange's parent company, Cboe Global Markets, Inc. (formerly named CBOE Holdings, Inc.) (''Cboe Global''), which is also the parent company of Cboe C2 Exchange, Inc. (''C2''), acquired Cboe EDGA Exchange, Inc. (''EDGA''), Cboe EDGX Exchange, Inc. (''EDGX'' or ''EDGX Options''), Cboe BZX Exchange, Inc. (''BZX'' or ''BZX Options''), and Cboe BYX Exchange, Inc. (''BYX'' and, together with Cboe Options, C2, EDGX, 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 trading platform to the same system used by the Cboe Affiliated Exchanges, which the Exchange expects to complete on October 7, 2019. Cboe Options believes offering similar functionality to the extent practicable will reduce potential confusion for market participants.

In connection with this technology migration, the Exchange has a shell Rulebook that resides alongside its current Rulebook, which shell Rulebook will contain the Rules that will be in place upon completion of the Cboe Options technology migration. The Exchange proposes to delete Rule 6.74B in the current Rulebook and add the provisions regarding SAM Auctions for simple orders, as proposed to be modified in this rule filing, to Rule 5.39 in the shell Rulebook.[5]

The proposed rule change moves the introductory paragraph of current Rule 6.74B to the introductory paragraph of proposed Rule 5.39 in the shell Rulebook and adds to the introductory paragraph[6] of Rule 5.39 that the Solicited Order may consist of one or more solicited orders.[7] This accommodates multiple contra-parties and increases the opportunities for customer orders to be submitted into a SAM Auction with the potential for price improvement, since the Solicited Order must stop the full size of the Agency Order. This has no impact on the execution of the Agency Order, which may already trade against multiple contra-parties depending on the final auction price, as set forth in proposed paragraph (e). The Exchange notes that with regard to order entry, the first order submitted into the system is marked as the initiating/agency side and the second order is marked as the contra-side. Additionally, the Solicited Order will always be entered as a single order, even if that order consists of multiple contra-parties who are allocated their portion of the trade in a post-trade allocation.[8]

Proposed Rule 5.39(a) lists the SAM Auction eligibility requirements:[9]

- The proposed rule change moves the requirement that the Agency Order must be in any class of options the Exchange designates as eligible for SAM Auctions from current Rule 6.74B(a)(1) to proposed Rule 5.39(a)(1).
- The proposed rule change moves the requirement that the Initiating TPH mark an Agency Order for SAM Auction processing from current Rule 6.74B(b)(1)(A) to proposed Rule 5.39(a)(2).
- The proposed rule change moves the requirement that the Agency Order must be for at least the minimum size designated by the Exchange (which may not be less than 500 standard option contracts or 5,000 mini-option contracts) from current Rule 6.74B(a)(1) to proposed Rule 5.39(a)(3). Proposed Rule 5.39(a)(3) also states the Solicited Order must be for (or must total, if the Solicited Order is comprised of multiple solicited orders) the same size as the Agency Order. While not explicitly stated in current Rule 6.74B, this proposed provision clarifies current functionality and is consistent with the current Rules.[10]

The proposed rule change deletes the requirement that the Initiating TPH must designate each of the Agency Order and Solicited Order as AON from current Rule 6.74B(a)(2). The Exchange's new system has been designed to automatically handle any orders submitted into a SAM Auction (using the appropriate messaging) as all-or-none, so the Initiating TPH will no longer be required to add any specific AON designations to the Agency Order or Solicited Order.

[5] Current Rule 6.74B, Interpretation and Policy .01 permits complex orders to be executed through a SAM Auction. The Exchange intends to adopt a separate rule regarding the execution of complex orders in SAM Auctions in a separate rule filing.

[6] The proposed rule change also adds to the proposed introductory paragraph that for purposes of proposed Rule 5.39, the term ''NBBO'' means the national best bid or offer at the particular point in time applicable to the reference, and the term ''Initial NBBO'' means the national best bid or national best offer at the time a SAM Auction is initiated. This is merely an addition of terminology used throughout the Rule, but has no impact on functionality.

[7] The Solicited Order cannot have a Capacity F for the same executing firm ID (''EFID'') as the Agency Order or for the account of any Market-Maker with an appointment in the applicable class on the Exchange. *See* current Rule 6.74B, Interpretation and Policy .03. Cboe Options Rule 6.74B does not contain a similar provision, but enforces the requirement that the contra-side order be a solicitation rather than a facilitation through surveillance. The proposed rule change adds this functionality, which will help with the enforcement of this requirement, in addition to surveillance. The Agency Order and Solicited Order cannot both be for the accounts of a customer. Current Rule 6.74B does not contain a similar prohibition. However, the Exchange believes it is appropriate for such customer-to-customer crosses to be submitted to an AIM Auction pursuant to Rule 5.37 in the shell Rulebook, as that rule contains a provision for Customer-to-Customer Immediate AIM Crosses.

[8] The Exchange notes that while other exchange rules do not specify whether the contra-side order in a solicitation auction mechanism may consist of multiple orders, the contra-side order for Qualified Contingent Cross Orders (see Rule 6.53 of the current Rulebook and Rule 5.6(c) of the shell Rulebook), which similarly have a minimum quantity requirement and are fully crossed against an Solicited Order that must be for a minimum number of contracts, may consist of multiple contra-side orders. However, Nasdaq ISE, LLC (''ISE'') Regulatory Information Circular 2014–013 states that the contra-side order submitted into a crossing mechanism (including the ISE solicited order mechanism) may consist of one or more parties.

[9] With respect to the existing SAM Auction eligibility requirements that the proposed rule change retains but moves from Rule 6.74B in the current Rulebook to Rule 5.39 in the shell Rulebook, the proposed rule change makes nonsubstantive changes, including to make the rule provision more plain English, to simplify the provisions, to delete any redundant language, and to conform language to corresponding rules of applicable Cboe Affiliated Exchanges. Unless otherwise specified in this rule filing, the proposed rule change makes no substantive changes to these provisions.

[10] *See* current Rule 6.74B(a)(2) (which requires the Agency Order to be stopped with a solicited order, and that those orders be all-or-none (''AON'')); and (b)(2)(A) (which provides the Agency Order will be executed against the solicited order (in full per the introductory paragraph of (b)(2)).

• The proposed rule change moves the requirement that the price of the Agency Order and the Solicited Order must be in an increment the Exchange determines on a class basis, which may be no smaller than $0.01 from current Rule 6.74B(a)(3) to proposed Rule 5.39(a)(4). The proposed rule change makes no changes to the permissible minimum increments in SAM Auctions.

• Proposed Rule 5.39(a)(5) states the Initiating TPH may not designate an Agency Order or Solicited Order as Post Only. A Post Only order is an order the System ranks and executes pursuant to proposed Rule 5.32, subjects to the Price Adjust process pursuant to Rule 5.32, or cancels or rejects (including if it is not subject to the Price Adjust process and locks or crosses a Protected Quotation of another exchange), as applicable (in accordance with User instructions), except the order or quote may not remove liquidity from the Book or route away to another Exchange. The Exchange does not currently offer Post Only order functionality, but will as of the technology migration.[11] The Exchange believes it is appropriate to not permit the Agency or Solicited Order to be designated as Post Only, as the purpose of a Post Only order is to not execute upon entry and instead rest in the Book, while the purpose of a SAM Auction is to receive an execution following the Auction but prior to entering the Book.

• Proposed Rule 5.39(a)(6) states an Initiating TPH may only submit an Agency Order to a SAM Auction after the market open. This is consistent with current functionality, as executions cannot occur prior to the opening of trading. The proposed rule change clarifies this in the Rule.

• Proposed Rule 5.39(a)(7) states an Initiating TPH may not submit an Agency Order if the NBBO is crossed (unless the Agency Order is a SAM Intermarket Sweep Order (''SAM ISO'') (see discussion below)). This is consistent with current functionality and ISO orders, as well as linkage rules, and the proposed rule change clarifies this in the Rule. The Exchange believes it is appropriate to not permit a SAM Auction to be initiated if the NBBO is crossed, as a crossed NBBO may indicate price uncertainty within the market. The Exchange believes this may prevent executions at potentially erroneous prices.

The proposed rule change also explicitly states that all of the eligibility requirements in proposed paragraph (a) must be met for a SAM Auction to be initiated, and that the System rejects or cancels both an Agency Order and Solicited Order submitted to a SAM Auction that do not meet the conditions in proposed paragraph (a). This is consistent with current functionality and the concept of eligibility requirements, and merely adds this detail the Rules.

Proposed Rule 5.39(b) lists the requirements related to the price at which the Solicited Order must stop the Agency Order:[12]

• The proposed rule change moves the requirement that the stop price for a buy (sell) Agency Order must be at or better than the then-current national best offer (''NBO'') (national best bid (''NBB'')) from current Rule 6.74B(a)(2) and (b)(1)(A) to proposed Rule 5.39(b)(1). The current rule also requires the stop price to be at or better than the same side NBBO. While the proposed rule change does not impose that restriction, it requires the execution price to be at or better than the Initial NBBO, and thus it has the same ultimate effect.

• Proposed rule 5.39(b)(2) states if the Agency Order is to buy (sell), the stop price must be at least one minimum increment better than the Exchange best bid (offer) (''BBO''), unless the Agency Order is a Priority Customer order and the resting order is a non-Priority Customer order, in which case the stop price must be at or better than the Exchange best bid (offer). Current Rule 6.74B is silent regarding whether the stop price must be at or better than the same-side Exchange best bid or offer; however, the execution price must be at or better than the Exchange best bid or offer, and the proposed stop price requirement is consistent with the provision, which merely applies this protection at the initiation of the SAM Auction. The Exchange believes this condition protects orders on the same side as the Agency Order resting on the Book, including Priority Customer orders. By permitting a Priority Customer Agency Order to be entered at the same price as a resting non-Priority Customer order, the proposed rule change also protects Priority Customer orders submitted into a SAM Auction. The proposed rule change is consistent with general customer priority principles.

• If the Agency Order is to buy (sell) and the Exchange best offer (bid) represents (a) a Priority Customer order on the Book, the stop price must be at least one minimum increment better than the Exchange best offer (bid); or (b) a quote or order that is not a Priority Customer order on the Book, the stop price must be at or better than the Exchange best offer (bid). Current Rule 6.74B is silent regarding whether the stop price must be at or better than the opposite-side Exchange best bid or offer; however, the execution price may not be at the same price as priority customer orders resting on the book on the opposite side of the Agency Order (unless the priority customer orders execute against the Agency Order), and the proposed stop price requirement is consistent with the provision, which merely applies this protection at the initiation of the SAM Auction. The Exchange believes this condition protects orders on the opposite side of the Agency Order resting on the Book, including Priority Customer orders.

• Proposed Rule 5.39(b)(4) states if the Initiating TPH submits a SAM sweep order to a SAM Auction, the stop price, SAM responses, and executions are permitted at a price inferior to the Initial NBBO. A ''SAM sweep order'' or ''SAM ISO'' is the submission of two orders for crossing in a SAM Auction without regard for better-priced Protected Quotes (as defined in Rule 5.65) because the submitting TPH routed an intermarket sweep order (''ISO'') simultaneously with the routing of the SAM ISO to execute against the full displayed size of any Protected Quote that is better than the stop price and has swept all interest in the Book with a price better than the stop price. Any execution(s) resulting from these sweeps accrue to the SAM Agency Order. Current Rule 6.74B is silent on whether ISOs are permitted with respect to SAM Auctions. However, the proposed definition of a SAM ISO is consistent with linkage rules.

The proposed rule change also explicitly states that the System rejects or cancels both an Agency Order and Solicited Order submitted to a SAM Auction that do not meet these conditions. This is consistent with current functionality and the concept of price conditions, and merely adds this detail the Rules.

Proposed Rule 5.39(c) describes the SAM Auction process, which commences upon receipt of an Agency Order that meets the conditions in

[11] *See* Cboe Options Rule 5.6(c) in the shell Rulebook.

[12] With respect to the existing SAM Auction eligibility requirements that the proposed rule change retains but moves from Rule 6.74B in the current Rulebook to Rule 5.39 in the shell Rulebook, the proposed rule change makes nonsubstantive changes, including to make the rule provision more plain English, to simplify the provisions, to delete any redundant language, and to conform language to corresponding rules of applicable Cboe Affiliated Exchanges. Unless otherwise specified in this rule filing, the proposed rule change makes no substantive changes to these provisions.

proposed paragraphs (a) and (b), as described above: [13]

• Proposed Rule 5.39(c)(1) states that one or more SAM Auctions in the same series may occur at the same time. To the extent there is more than one SAM Auction in a series underway at a time, the SAM Auctions conclude sequentially based on the exact time each SAM Auction commenced, unless terminated early pursuant to proposed paragraph (d). At the time each SAM Auction concludes, the System allocates the Agency Order pursuant to proposed paragraph (e) and takes into account all SAM Auction responses and unrelated orders in place at the exact time of conclusion. In the event there are multiple SAM Auctions underway that are each terminated early pursuant to proposed paragraph (d), the System processes the SAM Auctions sequentially based on the exact time each SAM Auction commenced.[14] The Exchange believes the proposed new functionality may lead to an increase in SAM Auctions, which may provide additional opportunities for price improvement for Agency Orders.

The Exchange notes it is also possible for various types of auctions (such as an AIM Auction or a complex order auction (''COA'')) today to occur concurrently in the same series, and at the end of each auction, it is possible for interest resting in the Book to trade against any of the auctioned orders in the series. While these auctions may be occurring at the same time, they will be processed in the order in which they are terminated (similar to how the System processes SAM Auctions as discussed above). In other words, suppose there is an AIM Auction, a SAM Auction, and a COA all occurring in the same series, which began and will terminate in that order, and each of which last 100 milliseconds. While it is possible for all three auctions to terminate nearly simultaneously, the System will still process them in the order in which they terminate. When the AIM Auction terminates, the System will process it in accordance with Rule 6.74A in the current Rulebook (Rule 5.37 in the shell Rulebook), and the auctioned order may trade against any resting interest (in addition to the contra-side order and responses submitted to that AIM Auction, which may only trade against the order auctioned in that AIM pursuant to Rule 6.74A (Rule 5.37 in the shell Rulebook). The System will then process the SAM Auction when it terminates, and the auctioned order may trade against any resting interest that did not execute against the AIM order (in addition to the contra-side order and responses submitted to that SAM Auction, which may only trade against the order auctioned in that SAM pursuant to current Rule 6.74B (proposed Rule 5.39)). Finally, the System will then process the COA Auction when it terminates, and the COA order may leg into the Book and trade against any resting interest that did not execute against the AIM order or SAM order (in addition to any interest resting on the complex order book and COA responses pursuant to current Rule 6.53C in the current Rulebook (which the Exchange intends to move to Rule 5.33 in the shell Rulebook)).

• The proposed rule change moves the provision regarding the SAM Auction notification message (currently referred to as a request for responses message) from current Rule 6.74B(b)(1)(B) to proposed Rule 5.39(c)(2). The proposed provision specifies that the message will detail the Capacity of the Agency Order, an Auction ID, and the option series, in addition to the price, side, and size, of the Agency Order, which message is sent to all TPHs that elect to receive SAM Auction notification messages. This is consistent with the current auction message that is disseminated; the proposed rule change adds these details to the rule. The proposed rule change also adds that SAM Auction notification messages are not included in the disseminated BBO or OPRA, which is also consistent with current functionality.

• The proposed rule change moves the provision regarding the length of the SAM Auction period from current Rule 6.74B(b)(1)(C) to proposed Rule 5.39(c)(3). The proposed rule change makes no changes to the current range of permitted lengths of SAM Auction periods.

• The proposed rule change clarifies in proposed Rule 5.39(c)(4) that the Initiating TPH may not modify or cancel an Agency Order or Solicited Order after submission to a SAM Auction. This is consistent with current functionality, and the proposed rule change merely adds this detail to the Rules.

Proposed Rule 5.39(c)(5) describes the provisions related to SAM responses: [15]

• The proposed rule change moves the provision that states a SAM response must specify size and side from current Rule 6.74B(b)(1)(C) to proposed Rule 5.39(c)(5). The proposed rule change deletes the requirement that a SAM response include a price, and instead permits a SAM response to specify a limit price or be treated as market. This provides Users with more flexibility regarding the price at which it is willing to trade against an Agency Order. The proposed rule change adds that a SAM response must also specify an Auction ID, and that a SAM response may only participate in the AIM Auction with the Auction ID specified in the response. While not specified in current Rule 6.74B, this is consistent with current functionality, and the proposed rule change adds this detail to the Rules. The Exchange proposes to include this language given the above proposal that permits concurrent SAM Auctions in the same series.

Current Rule 6.74B(b)(1)(C) permits all Trading Permit Holders may submit responses to a SAM request for responses (''RFR''), except that responses may not be entered for the account of an options market-maker from another options exchange. The proposed rule change permits all Users (including Market-Makers from another options exchange) [16] to submit responses to a SAM Auction. By permitting additional participants to submit responses to SAM Auctions, the Exchange believes this may provide the opportunity for additional liquidity in these auctions, which could lead to additional price improvement opportunities. Rules of other exchanges do not contain restrictions on who may

[13] With respect to the provisions regarding the SAM Auction process that the proposed rule change retains but moves from Rule 6.74B in the current Rulebook to Rule 5.39 in the shell Rulebook, the proposed rule change makes nonsubstantive changes, including to make the rule provision more plain English, to simplify the provisions, to delete any redundant language, and to conform language to corresponding rules of applicable Cboe Affiliated Exchanges. Unless otherwise specified in this rule filing, the proposed rule change makes no substantive changes to these provisions.

[14] *See* proposed Rule 5.39(c)(1). This provision regarding concurrent SAM Auctions is the same as the Automated Improvement Mechanism (''AIM'') provision that permits concurrent AIM Auctions for Agency Orders of 50 contracts or more. *See* Rule 5.37(c)(1) of the shell Rulebook.

[15] With respect to the provisions regarding SAM responses that the proposed rule change retains but moves from Rule 6.74B in the current Rulebook to Rule 5.39 in the shell Rulebook, the proposed rule change makes nonsubstantive changes, including to make the rule provision more plain English, to simplify the provisions, to delete any redundant language, and to conform language to corresponding rules of applicable Cboe Affiliated Exchanges. Unless otherwise specified in this rule filing, the proposed rule change makes no substantive changes to these provisions.

[16] The proposed rule change also prohibits the Initiating TPH from submitting a response to a SAM Auction (and notes the system helps enforce this prohibition by not permitting a response to have the same EFID as the Agency Order). This will prevent the submitter of a Solicited Order from submitting a response to attempt to participate in the execution of an Agency Order in the event the Solicited Order does not execute against the Agency Order, which is consistent with the requirement that the Solicited Order cannot be a facilitation.

respond to similar solicitation auction mechanisms.[17]

• The proposed rule change moves the provision that states the minimum price increment for SAM response is the same as the one the Exchange determines for a class (pursuant to proposed Rule 5.39(a)(4)), and the System rejects a SAM response that is not in the applicable minimum increment from current Rule 6.74B(b)(1)(E) to proposed Rule 5.39(c)(5)(A).

• Proposed Rule 5.39(c)(5)(B) states SAM buy (sell) responses are capped at the Exchange best offer (bid), or one minimum increment better than the Exchange best offer (bid) if it is represented by a Priority Customer on the Book (unless the Agency Order is a SAM ISO) that exists at the conclusion of the SAM Auction. The System will execute SAM responses, if possible, at the most aggressive permissible price not outside the BBO at the conclusion of the SAM Auction or the Initial NBBO. The proposed rule change ensures the execution price of a response will not cross the Initial NBBO in accordance with linkage rules.[18] Additionally, proposed subparagraph (e) requires the execution price to be at or between the BBO at the conclusion of the SAM Auction. Therefore, as proposed, the price at which any response may be entered (and thus be executed) will ultimately not be through the Initial NBBO or the BBO at the conclusion of the SAM Auction.

• Proposed Rule 5.39(c)(5)(C) states a User may submit multiple SAM responses at the same or multiple prices to a SAM Auction. This is consistent with current functionality. Current Rule 6.74B contains no restriction on how many responses a User may submit; the proposed rule change merely makes this explicit in the Rules. The proposed rule change also states for purposes of a SAM Auction, the System aggregates all of a User's orders and quotes on the Book and SAM responses for the same EFID at the same price. This (combined with the proposed size cap described below) will prevent a User from submitting multiple orders, quotes, or responses at the same price to obtain a larger pro-rata share of the Agency Order.

• Proposed Rule 5.39(c)(5)(D) states the System caps the size of a SAM response, or the aggregate size of a User's orders and quotes on the Book and SAM responses for the same EFID at the same price, at the size of the Agency Order (*i.e.,* the System ignores size in excess of the size of the Agency Order when processing the AIM Auction). This is consistent with current subparagraph (b)(1)(F), except the proposed rule change caps the aggregate size of a User's interest at the same price, rather than the size of an individual response. The Exchange believes this is reasonable to prevent a User from submitting an order, quote, or response with an extremely large size in order to obtain a larger pro-rata share of the Agency Order.

• Proposed Rule 5.39(c)(5)(E) states SAM responses must be on the opposite side of the market as the Agency Order, and the System rejects a SAM response on the same side of the market as the Agency Order. This is consistent with current functionality, and the proposed rule change merely adds this detail to the rules. Additionally, the Exchange believes this is reasonable given that the purpose of a SAM response is to trade against the Agency Order in the SAM Auction into which the SAM response was submitted.

• The proposed rule change moves the provision that says SAM responses are not visible to SAM Auction participants or disseminated to OPRA from current Rule 6.74B(b)(1)(D) to proposed Rule 5.39(c)(5)(F).

• The proposed rule change moves the provision that says a User may modify or cancel its SAM responses during a SAM Auction from current Rule 6.74B(b)(1)(G) to proposed Rule 5.39(c)(5)(G).

Current Rule 6.74B(b)(2) states a SAM Auction at the sooner of Rule 6.74A(b)(2)(A) through (F), which are the provisions that describe when an AIM Auction concludes. The Exchange recently amended the events that may cause an AIM Auction to conclude, so the proposed rule change similarly amends the events that may cause a SAM Auction to conclude to be the same as the events that may cause an AIM Auction to conclude (and adds them to proposed Rule 5.39). Therefore, proposed Rule 5.39(d) states a SAM Auction concludes at the earliest to occur of the following times:

• The end of the SAM Auction period;

• upon receipt by the System of a Priority Customer order on the same side of the market with a price the same as or better than the stop price that would post to the Book;

• upon receipt by the System of an unrelated order or quote that is not a Priority Customer order on the same side of the market as the Agency Order that would cause the stop price to be outside of the BBO;

• the market close (consistent with current functionality and merely added to the Rules); and

• any time the Exchange halts trading in the affected series, provided, however, that in such instance the SAM Auction concludes without execution (consistent with current Rule 6.74A(b)(2)(F), and the proposed rule change adds detail that a SAM Auction in such a case will conclude without execution, which is consistent with current functionality, as no executions may occur while a series is halted for trading).

The proposed rule change deletes the following events that currently cause a SAM Auction to conclude early:

• Upon receipt by the System of an unrelated order (in the same series as the Agency Order) that is marketable against either the BBO (when such quote is the NBBO) or the RFR responses;

• upon receipt by the System of an unrelated limit order (in the same series as the Agency Order and on the opposite side of the market as the Agency Order) that improves any RFR responses; and

• any time there is a quote lock on the Exchange pursuant to Rule 6.45(c) in the current Rulebook.

As discussed below, unrelated orders on the opposite side of the Agency Order received during the SAM Auction may execute against interest outside of the SAM Auction, and therefore, the Exchange will no longer terminate a SAM Auction due to the receipt of an order on the opposite side of the Agency Order. The proposed rule change to conclude a SAM Auction early upon receipt of certain orders on the same side as the Agency Order ensure that the execution price does not occur at the same price as a Priority Customer order on the Book or at a price worse on than a non-Priority Customer order on the Book. This is consistent with the requirements for the stop price described above. Additionally, the Exchange will not have quote lock functionality following the technology migration, and therefore proposes to delete that as an event that may cause a SAM Auction to terminate early.[19]

An unrelated market or marketable limit order (against the BBO), including a Post Only Order, on the opposite side of the Agency Order received during the AIM Auction does not cause the SAM

[17] *See, e.g.,* Miami International Securities Exchange, LLC ("MIAX") Rule 515A(b).

[18] *See* Rule 6.81(b)(8) in the current Rulebook (Rule 5.66(b)(8) in the shell Rulebook) (requires an order to be stopped at a price no worse than the price at the time of receipt of the order).

[19] *See* Securities Exchange Act Release No. 86374 (July 15, 2019), 84 FR 34963 (July 19, 2019) (SR–CBOE–2019–033) (proposed rule change in which the Exchange deletes quote lock functionality).

Auction to end early and executes against interest outside of the SAM Auction. If contracts remain from such unrelated order at the time the SAM Auction ends, they may be allocated for execution against the Agency Order pursuant to proposed paragraph (e). Because these orders may have the opportunity to trade against the Agency Order following the conclusion of the SAM Auction, which execution must still be at or better than the Initial NBBO and BBO at the conclusion of the SAM Auction, the Exchange does not believe it is necessary to cause a SAM Auction to conclude early in the event the Exchange receives such orders. This will provide more time for potential price improvement, and the unrelated order will have the opportunity to trade against the Agency Order in the same manner as all other contra-side interest.

The proposed rule change moves the provisions regarding the allocation of the Agency Order at the conclusion of the SAM Auction against the Solicited Order or contra-side interest (which includes orders and quotes resting in the Book and SAM responses) from current Rule 6.74B(b)(2) to proposed Rule 5.39(e). Executions at the conclusion of the SAM Auction will occur in the same manner as they do today, except the proposed rule change prioritizes Priority Customer AON orders over all non-Priority Customer contra-side interest (displayed Priority Customer orders will have priority over Priority Customer AON orders) in executions following SAM Auctions.[20] The Exchange believes this encourages market participants, including Priority Customers, to display their best bids and offers, which may lead to enhanced liquidity and tighter markets.

The proposed rule change adds detail regarding the priority of contra-side interest that executes against the Agency Order, which is consistent with the general priority rules in current Rule 6.45 in the current Rulebook (Rule 5.32 in the shell Rulebook), except for the AON provision noted above. The proposed rule change also explicitly states that the System cancels or rejects any unexecuted SAM responses (or unexecuted portions) at the conclusion of a SAM Auction. While the current rule does not state this, it is consistent with current functionality. Additionally, it is consistent with the provision (as described above) that Users submit responses to a specific auction to potentially execute against the Agency Order and the proposed provision that responses may only execute in the SAM Auction into which they are submitted. The proposed rule change also makes nonsubstantive changes to the allocation provisions, including to make the rule provision more plain English, to simplify the provisions, to delete any redundant language, and to conform language to corresponding rules of applicable Cboe Affiliated Exchanges. Unless otherwise specified in this rule filing, the proposed rule change makes no substantive changes to these provisions.

The proposed rule change moves current Rule 6.74B, Interpretations and Policies .02 and .03 to proposed Rule 5.39, Interpretations and Policies .01 and .02, respectively, making only nonsubstantive changes.

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.[21] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[22] 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)[23] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's SAM Auction as proposed will function in a substantially similar manner following the technology migration as it does today. The proposed rule change will benefit investors by providing continued consistency across the Exchange's (and the Cboe Affiliated Exchanges', as applicable) price improvement mechanisms. The general framework of the SAM Auction process as proposed to be amended (such as the eligibility requirements, the auction response period, the same-side stop price requirements, response requirements, and auction notification process) will continue to be substantively the same as the framework for the AIM price improvement auction the Exchange's current price improvement auction, as the Exchange recently amended.[24] The Exchange continued similarity of its SAM Auction to its AIM Auction will allow the Exchange's proposed price improvement functionality to fit seamlessly into the options market and benefit market participants with consistency across similar functionality. The Exchange also believes this will encourage Users to compete vigorously to provide the opportunity for price improvement for customer orders in a competitive auction process.

The Exchange believes the proposed rule change to permit the Solicited Order to be comprised of multiple orders that total the size of the Agency Order may increase liquidity and opportunity for Agency Orders to participate in SAM Auctions, and therefore provide Agency Orders with additional opportunities for price improvement, which is consistent with the principles behind the SAM Auction. The Exchange believes that this will be beneficial to participants because allowing multiple contra-parties should foster competition for filling the contra-side order and thereby result in potentially better prices, as opposed to only allowing one contra-party and, thereby requiring that contra-party to do a larger size order which could result in a worse price for the trade. Another exchange permits the contra-side in a solicited auction mechanism to be comprised of multiple contra-parties.[25] The Exchange notes the contra-side of a Qualified Contingent Cross order may be comprised of multiple orders.[26]

The proposed rule that an Initiating TPH may not designate an Agency Order or Solicited Order as Post Only protects investors, because it provides transparency regarding functionality that will not be available for SAM. The Exchange believes this is appropriate, as the purpose of a Post Only order is to not execute upon entry and instead rest in the Book, while the purpose of submitting orders to a SAM Auction is to receive an execution following the

[20] Providing displayed interest with priority over nondisplayed interest is consistent with the Exchange's general allocation rules. *See* Rule 5.32(a)(3)(A) in the shell Rulebook (which provides that displayed orders have priority over nondisplayed orders).

[21] 15 U.S.C. 78f(b).

[22] 15 U.S.C. 78f(b)(5).

[23] *Id.*

[24] *See* SR–CBOE–2019–045 (filed August 28, 2019).

[25] *See* ISE Options 3, Section 11(d); and ISE Regulatory Information Circular 2014–013.

[26] Unlike orders submitted to a SAM Auction, Qualified Contingent Cross orders may immediately execute and are not exposed to the market for possible price improvement.

auction and not enter the Book. Pursuant to current Rule 6.74B and proposed Rule 5.39, an Agency Order will fully execute against contra-side interest (possibly against the Solicited Order, which must be for the same size as the Agency Order), or will be cancelled in the event there is no execution following a SAM Auction, and thus there cannot be remaining contracts in an Agency Order or Solicited Order to enter the Book.

The proposed stop price requirements will benefit investors, as they will protect Priority Customer orders in the Book (as well as Agency Orders for Priority Customers). The current rule essentially enforces these price requirements at the conclusion of a SAM Auction; the proposed rule change merely applies this check at the initiation of a SAM Auction. The Exchange believes application of this price check at the initiation of a SAM Auction may result in the Agency Order executing at a better price, since the stop price must improve any same-side orders (with the exception of a Priority Customer Agency Order and a resting non-priority customer order described above). The proposed rule change is consistent with general customer priority principles.

As discussed above, the Exchange has proposed to allow SAM Auctions to occur concurrently with other SAM Auctions. Although SAM Auctions for Agency Orders will be allowed to overlap, the Exchange does not believe this raises any issues that are not addressed through the proposed rule change described above. For example, although overlapping, each SAM Auction will be started in a sequence and with a time that will determine its processing. Thus, even if there are two SAM Auctions that commence and conclude, at nearly the same time, each SAM Auction will have a distinct conclusion at which time the SAM Auction will be allocated. In turn, when the first Auction concludes, unrelated orders that then exist will be considered for participation in the SAM Auction. If unrelated orders are fully executed in such SAM Auction, then there will be no unrelated orders for consideration when the subsequent SAM Auction is processed (unless new unrelated order interest has arrived). If instead there is remaining unrelated order interest after the first SAM Auction has been allocated, then such unrelated order interest will be considered for allocation when the subsequent SAM Auction is processed. As another example, each SAM response is required to specifically identify the Auction for which it is targeted and if not fully executed will be cancelled back at the conclusion of the Auction. Thus, SAM responses will be specifically considered only in the specified SAM Auction. The Exchange does not believe that allowing multiple auctions to overlap for Agency Orders presents any unique issues that differ from functionality already in place on the Exchange or other exchanges. Pursuant to Rule 5.37(c)(1) in the shell Rulebook, multiple AIM Auctions for Agency Orders for 50 or more contracts may overlap. Additionally, other options exchanges permit other auctions to overlap.[27]

The proposed rule change will also perfect the mechanism of a free and open market and a national market system, as it is consistent with linkage rules. Proposed Rule 5.39 does not permit Agency Orders to be submitted when the NBBO is crossed and requires Agency Order execution prices at the end of SAM Auctions to be at or between the Initial NBBO and the BBO at the conclusion of the SAM Auction. The proposed stop price requirements and the events to terminate a SAM Auction early further ensure execution prices at or better than the Initial NBBO and BBO. Additionally, the proposed SAM ISO order type (which is similar to current AIM ISO functionality) will provide TPHs with an efficient method to initiate a SAM Auction while preventing trade-throughs.

The proposed rule change to permit all Users (other than the Initiating TPH) to respond to SAM Auctions will benefit investors. Permitting all Users to submit responses to SAM Auctions may result in more Users having the opportunity to participate in executions at the conclusion of SAM Auctions. Additionally, it may increase liquidity in SAM Auctions, which may lead to more opportunities to price improvement. 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 other exchanges permit all market participants to respond to similar price improvement auctions.[28]

The proposed SAM Auction response requirements are reasonable and promote a fair and orderly market and national market system, as they provide clarity regarding how they may respond to a SAM Auction. The proposed provisions regarding the aggregation of responses with other contra-side interest of the same User, and capping the size and price of that interest at the price and size of the Agency Order, will protect investors by preventing a User from submitting multiple orders, quotes, or responses at the same price to obtain a larger pro-rata share of the Agency Order. The proposed response provisions also ensure responses will be available for execution at prices at or better than the BBO at the conclusion of the SAM Auction, and the Initial NBBO, in accordance with linkage rules, as discussed above.

Unlike current Rule 6.74B, the Exchange will not conclude a SAM Auction early due to the receipt of an opposite side order. The Exchange believes this promotes just and equitable principles of trade, because these orders may have the opportunity to trade against the Agency Order following the conclusion of the SAM Auction, which execution must still be at or better than the Initial NBBO and BBO existing at the conclusion of the SAM Auction. The Exchange believes this will protect investors, because it will provide more time for price improvement, and the unrelated order will have the opportunity to trade against the Agency Order in the same manner as all other contra-side interest.

With respect to trading halts, as described herein, in the case of a trading halt on the Exchange in the affected series, the Auction will be cancelled without execution. Cancelling Auctions without execution in this circumstance is consistent with Exchange handling of trading halts in the context of continuous trading on the Exchange and promotes just and equitable principles of trade and, in general, protects investors and the public interest.[29]

Agency Orders will execute against contra-side interest at the conclusion of a SAM Auction in the same manner as it does today, except that the proposed rule change will also provide priority to Priority Customer AON orders over all non-Priority Customer contra-side interest. Displayed Priority Customer orders will have priority over Priority Customer AON orders, SAM Auctions, which the Exchange believes encourages market participants, including Priority Customers, to display their best bids and offers, which may lead to enhanced liquidity and tighter markets. Prioritizing displayed interest over nondisplayed interest is consistent with the Exchange's current allocation and priority rules, which have been

[27] *See, e.g.,* ISE Options 3, Section 11(d); and Boston Options Exchange (''BOX'') Rule 7270.

[28] *See, e.g.,* MIAX Rule 515A(b)(2)(i)(C).

[29] The Exchange notes that trading on the Exchange in any option contract will be halted whenever trading in the underlying security has been paused or halted by the primary listing market and other circumstances. *See* Rule 6.3 in the current Rulebook.

previously filed with the Commission.[30] The Exchange believes this will ensure a fair and orderly market by maintaining priority of orders and quotes and protecting Priority Customer orders, while still affording the opportunity for price improvement during each SAM Auction commenced on the Exchange. The proposed allocation will continue to ensure that the Agency Order will be filled if there is a Priority Customer order on the Book at the stop price and sufficient other contra-side interest to satisfy the Agency Order.

While other exchange rules do not discuss how AON orders are prioritizes at the conclusion of similar solicitation auction mechanisms, the Commission has previously considered this issue. The Commission has stated that not protecting AON public customer order on the book while permitting the agency order and solicited order to execute would disadvantage the public customer order.[31] The proposed rule change to prioritize Priority Customer AON orders over non-Priority Customer contra-side interest ensures that the Agency order and Solicited Order will not cross when a Priority Customer AON order at the stop price is resting on the Exchange's Book, and thus is consistent with the Act, as it promotes just and equitable principles of trade, removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest. As noted above, the Commission has also previously considered the issue of prioritizing displayed interest over nondisplayed interest, as that concept exists in the Exchange's Rules (and was therefore previously filed with the Commission).

While Priority Customer AON orders generally execute after all other interest,[32] the Exchange believes it is appropriate to provide this priority to Priority Customer AON orders in the context of a SAM Auction and give these orders an increased change to execute[33] against the Agency Order (assuming there is sufficient size to satisfy the Agency Order and the AON contingency can be satisfied) given that such orders may prevent an Agency Order from executing against a Solicited Order. As a result, the proposed rule change ensures a Priority Customer AON resting on the Book at the stop price at the conclusion of a SAM Auction will not be disadvantaged.

The Exchange believes the proposed rule changes that add detail to the Rules, which are consistent with current functionality, will remove impediments to and perfect the mechanism of a free and open market and protect investors, as these changes provide transparency in the Rules regarding SAM Auctions. Additionally, the proposed rule change is substantially the same as the rule of another exchange.[34]

The proposed rule change is also consistent with Section 11(a)(1) of the Act[35] and the rules promulgated thereunder. Generally, Section 11(a)(1) of the Act restricts any member of a national securities exchange from effecting any transaction on such exchange for (i) the member's own account, (ii) the account of a person associated with the member, or (iii) an account with respect to which the member or a person associated with the member exercises investment discretion (collectively referred to as ''covered accounts''), unless a specific exemption is available. Examples of common exemptions include the exemption for transactions by broker dealers acting in the capacity of a market maker under Section 11(a)(1)(A),[36] the ''G'' exemption for yielding priority to non-members under Section 11(a)(1)(G) of the Act and Rule 11a1–1(T) thereunder,[37] and ''Effect vs. Execute'' exemption under Rule 11a2–2(T) under the Act.[38]

The ''Effect vs. Execute'' exemption permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute transactions on the exchange. To comply with Rule 11a2–2(T)'s conditions, a member: (i) Must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution;[39] (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule. For the reasons set forth below, the Exchange believes that TPHs entering orders into SAM would satisfy the requirements of Rule 11a2–2(T).

In the context of automated trading systems, the Commission has found that the off-floor transmission requirement is met if a covered account order is transmitted from off the floor directly to the Exchange by electronic means.[40] Because the Exchange's SAM Auction receives, and will continue to receive, orders from TPHs electronically through remote terminals or computer-to-computer interfaces, the Exchange believes that orders submitted to a SAM Auction from off the Exchange's trading floor will satisfy the off-floor transmission requirement.[41]

[30] *See* Rule 5.32(a)(3)(A) in the shell Rulebook.

[31] The Commission previously stated that permitting ''the Agency Order and Solicited Order to cross when an all-or-none customer order at the stop price exists on Phlx's order book would result in an outcome that is not consistent with the Act. Specifically, rather than protecting the all-or-none public customer order at the stop price, Phlx's proposal to allow the Solicited Order to execute against the Agency Order and leave the all-or-none public customer order on the order book would disadvantage the public customer order. While such a result may be expedient for the firm that entered the Agency Order and Solicited Order into the Solicitation Auction and for the solicited party, it would raise concerns under Section 6(b)(5) of the Act, which, among other things, requires that the rules of a national securities exchange be designed 'to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest . . .'.'' *See* Securities Exchange Act Release No. 75300 (June 25, 2015), 80 FR 37672, 37683 (July 1, 2015) (SR–Phlx–2014–66) (order disapproving a proposed rule change to adopt an electronic solicitation mechanism).

[32] *See* Rule 5.32(a)(3)(C) in the shell Rulebook.

[33] If the Priority Customer AON order received last priority (except for non-Priority Customer AON orders, as is normally the case (*see* Rule 5.32(a)(3)(C) in the shell Rulebook), the Priority Customer AON order would have a reduced change to execute against the Agency Order.

[34] *See* EDGX Options Rule 21.21; *see also* Securities Exchange Act Release No. 87060 (September 23, 2019) (SR–CboeEDGX–2019–047).

[35] 15 U.S.C. 78k(a). Section 11(a)(1) prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises discretion unless an exception applies.

[36] 15 U.S.C. 78k(a)(1)(A).

[37] 15 U.S.C. 78k(a)(1)(G) and 17 CFR 240.11a1–1(T).

[38] 17 CFR 240.11a2–2(T).

[39] The member may, however, participate in clearing and settling the transaction.

[40] *See, e.g.,* Securities Exchange Act Release Nos. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031) (approving BATS options trading); 59154 (December 23, 2008), 73 FR 80468 (December 31, 2008) (SR–BSE–2008–48) (approving equity securities listing and trading on BSE); 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080) (approving NOM options trading); 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131) (approving The Nasdaq Stock Market LLC); 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR–PCX–00–25) (approving Archipelago Exchange); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (SR–NYSE–90–52 and SR–NYSE–90–53) (approving NYSE's Off-Hours Trading Facility); and 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979) (''1979 Release'').

[41] A TPH may not enter an order for a covered account from on the trading floor and rely on the Effect v. Execute, and therefore another exception must apply. A TPH may not send an order for a covered account for an affiliated TPH on the floor and rely on the Effect v. Execute, and therefore another exception must apply.

The second condition of Rule 11a2–2(T) requires that neither a member nor an associated person of such member participate in the execution of its order. The Exchange represents that, upon submission to the SAM Auction, an order or SAM response will be executed automatically pursuant to the rules set forth for SAM Auctions. In particular, execution of an order (including the Agency and the Solicited Order) or a SAM response sent to the mechanism depends not on the TPH entering the order or response, but rather on what other orders and responses are present and the priority of those orders and responses. Thus, at no time following the submission of an order or response is a TPH or associated person of such TPH able to acquire control or influence over the result or timing of order or response execution.[42] Once the Agency Order and Solicited Order, or the response, as applicable, have been transmitted, the Initiating TPH that transmitted the orders, or the User that submitted the response, respectively, will not participate in its execution of the Agency Order or Solicited Order, or the response, respectively. No TPH, including the Initiating TPH, will see a SAM response submitted into SAM, and therefore and will not be able to influence or guide the execution of their Agency Orders, Solicited Orders, or SAM responses, as applicable.

Rule 11a2–2(T)'s third condition requires that the order be executed by an exchange member who is unaffiliated with the member initiating the order. The Commission has stated that the requirement is satisfied when automated exchange facilities, such as the SAM Auction, are used, as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange.[43] The Exchange represents that the SAM Auction is designed so that no TPH has any special or unique trading advantage in the handling of its orders or responses after transmitting them to the mechanism.

A TPH (not acting in a market-maker capacity) could submit an order for a covered account from off of the Exchange's trading floor to an unaffiliated Floor Broker for submission for execution in the SAM Auction from the Exchange's trading floor and satisfy the effect-versus-execute exemption (assuming the other conditions are satisfied).[44] However, a TPH could not submit an order for a covered account to its ''house'' Floor Broker on the trading floor for execution and rely on this exemption. Because a TPH may not rely on the ''G'' exemption when submitting an order to a SAM Auction,[45] it would need to ensure another exception applies in this situation.

Rule 11a2–2(T)'s fourth condition requires that, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person thereof may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2–2(T) thereunder.[46] The Exchange recognizes that TPHs relying on Rule 11a2–2(T) for transactions effected through the SAM Auction must comply with this condition of the Rule, and the Exchange will enforce this requirement pursuant to its obligations under Section 6(b)(1) of the Act to enforce compliance with federal securities laws.

Therefore, the Exchange believes that the instant proposal is consistent with Rule 11a2–2(T), and that therefore the exception should apply in this case. Therefore, the Exchange believes the proposed rule change is consistent with Section 11(a) of the Act and the Rules thereunder.

The proposed rule change is generally intended to amend certain system functionality currently offered by Cboe Options 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. This will provide Users with greater harmonization of price improvement auction mechanisms available among the Cboe Affiliated Exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition, as the proposed changes to the Exchange's SAM Auction will apply to all orders submitted to a SAM Auction in the same manner. SAM Auctions will continue to be voluntary for TPHs to use, and are available to all TPHs. Additionally, the ability to respond to SAM Auctions will not be available to all Users (except the Initiating TPH, which is consistent with the requirement that the contra-side order be a solicitation rather than a facilitation). The proposed rule change to provide Priority Customer AON orders with priority over all non-Priority Customer contra-side interest protects additional Priority Customer orders and will ensure that a Priority Customer AON order resting on the Book at the stop price is not disadvantaged.

The Exchange does not believe the proposed rule change will impose any burden on intermarket competition, because the general framework and primary features of the Exchange's current SAM Auction are not changing, and will continue to protect orders,

[42] n Initiating TPH may not cancel or modify an Agency Order or Solicited Order after it has been submitted into SAM, but Users may modify or cancel their responses after being submitted into a SAM. *See* proposed Rule 5.39(c)(4) and (c)(5)(G). The Exchange notes that the Commission has stated that the non-participation requirement does not preclude members from cancelling or modifying orders, or from modifying instructions for executing orders, after they have been transmitted so long as such modifications or cancellations are also transmitted from off the floor. *See* Securities Exchange Act Release No. 14563 (March 14, 1978), 43 FR 11542, 11547 (the ''1978 Release'').

[43] In considering the operation of automated execution systems operated by an exchange, the Commission noted that, while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the system. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T). *See* 1979 Release.

[44] Orders for covered accounts that rely on the ''effect versus execute'' exemption in this scenario must be transmitted from a remote location directly to the Floor Broker on the trading floor by electronic means.

[45] *See* proposed Rule 5.39(e) (which describes the allocation of the Agency Order at the conclusion of the SAM Auction, which does not prioritize non-TPH broker-dealers, as would be required by the ''G'' exemption).

[46] *See* 17 CFR 240.11a2–2(T)(a)(2)(iv). In addition, Rule 11a2–2(T)(d) requires a member or associated person authorized by written contract to retain compensation, in connection with effecting transactions for covered accounts over which such member or associated persons thereof exercises investment discretion, to furnish at least annually to the person authorized to transact business for the account a statement setting forth the total amount of compensation retained by the member in connection with effecting transactions for the account during the period covered by the statement which amount must be exclusive of all amounts paid to others during that period for services rendered to effect such transactions. *See also* 1978 Release, at 11548 (stating ''[t]he contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related compensation do so only after deciding that such arrangements are suitable to their interests'').

including Priority Customer orders, resting in the Book, as applicable. The proposed rule change will provide continued consistency across the Exchange's (and the Cboe Affiliated Exchanges', as applicable) price improvement mechanisms. The general framework and primary features of the proposed SAM Auction process (such as the eligibility requirements, auction response period, same-side stop price requirements, response requirements, and auction notification process), are substantively the same as the framework for the AIM price improvement auction the Exchange's current price improvement auction, as recently proposed to be amended in connection with the Exchange's upcoming technology migration.[47] Additionally, other options exchanges also offer similar auction mechanisms.[48]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[49] and Rule 19b–4(f)(6) thereunder.[50]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[51] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[52] 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 Exchange may implement the proposed rule change at the time of its anticipated October 7, 2019 system migration. The Exchange notes that the proposed rule change is substantially identical to EDGX Options Rule 21.21 and similar to functionality on other options exchanges, and believes waiver of the operative delay would permit the Exchange to continue to provide the SAM functionality to market participants on a continuous, uninterrupted basis.[53] For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.[54]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2019–063 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–2019–063. 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–CBOE–2019–063, and should be submitted on or before October 28, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[55]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–21725 Filed 10–4–19; 8:45 am]

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[47] *See supra* note 24.

[48] *See, e.g.,* Nasdaq ISE, LLC (''ISE'') Options 3, Section 11(d); and MIAX Rule 515A(b).

[49] 15 U.S.C. 78s(b)(3)(A).

[50] 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.

[51] 17 CFR 240.19b–4(f)(6).

[52] 17 CFR 240.19b–4(f)(6)(iii).

[53] *See supra* notes 34 and 48.

[54] 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).

[55] 7 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87182; File No. SR–MRX–2019–20]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Several Sections of Options 3

October 1, 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 September 17, 2019, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

(the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 3 at Section 4, ''Acceptance of Quotes and Orders,'' adopt a new Section 5, ''Entry and Display of Single-Leg Orders,'' Section 7, ''Types of Order,'' at Supplementary Material .03 and Section 22 titled ''Limitations on Orders.'' The Exchange proposes to amend Options 3, Section 15, ''Simple Order Risk Protections.''

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 Exchange proposes to amend Options 3 at Section 4, ''Acceptance of Quotes and Orders,'' adopt a new Section 5, ''Entry and Display of Single-Leg Orders,'' Section 7, ''Types of Order,'' at Supplementary Material .03 and Section 22 titled ''Limitations on Orders.'' The Exchange proposes to amend Options 3, Section 15, ''Simple Order Risk Protections.'' Each rule change will be discussed in greater detail below.

Options 3, Section 4, Acceptance of Orders and Quotes

Currently, Options 3, Section 4 is titled ''Acceptance of Quotes or Orders.'' The Exchange proposes to retitle Options 3, Section 4 as ''Entry and Display of Quotes.'' The Exchange proposes to add a new section (b) to Options 3, Section 4 to describe the current requirements and conditions for submitting quotes. These requirements reflect the current System operation today. The Exchange proposes to memorialize the various requirements for the submission of quotes into the System for greater transparency. The Exchange proposes to provide at new Options 3, Section 4(b), ''Quotes are subject to the following requirements and conditions:''. The Exchange proposes to add at Options 3, Section 4(b)(1) that ''Market Makers may generate and submit option quotations.'' Current Options 2, Section 5 makes clear that Market Makers may submit quotes.[4] The Exchange proposes to create a list of rules related to quote submission within this rule for ease of reference. The Exchange proposes to provide at proposed new Options 3, Section 4(b)(2) that ''The System shall time-stamp a quote which shall determine the time ranking of the quote for purposes of processing the quote.'' The Exchange notes that all quotes today are time-stamped for purposes of processing quotes. Proposed Options 3, Section 4(b)(3) states that ''Market Makers may enter bids and/or offers in the form of a two-sided quote. Only one quote may be submitted at a time for an option series.'' The Exchange believes that this information will provide Market Makers with information on submitting a quote. The Exchange notes that bid or offer may be a ''0,'' however a price is required to be entered for both the bid and offer to be entered into the System. Further, the Exchange proposes at Options 3, Section 4(b)(4) to provide clarity for entering quotes and proposes to specify, ''The System accepts quotes for the Opening Process as specified in Options 3, Section 8.'' [5] The Exchange believes that this information will bring greater transparency to the Rulebook with respect to limitations for submitting quotations into the System.

The Exchange proposes a provision regarding firm quote within proposed Options 3, Section 4(b)(5):

Firm Quote. Where quotes in options on another market or markets are subject to relief from the firm quote requirement set forth in the Rule 602 of Regulation NMS under the Exchange Act orders and quotes will receive an automatic execution at or better than the NBBO based on the best bid or offer in markets whose quotes are not subject to such relief. Such determination may be made by way of notification from another market that its quotes are not firm or are unreliable; administrative message from the Option Price Reporting Authority (''OPRA''); quotes received from another market designated as ''not firm'' using the appropriate indicator; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are not firm. The Exchange shall maintain a record of each instance in which another exchange's quotes are excluded from the Exchange's calculation of NBBO, and shall notify such other exchange that its quotes have been so excluded. Where quotes in options on another market or markets previously subject to relief from the firm quote requirement set forth in the Quote Rule are no longer subject to such relief, such quotations will be included in the calculation of NBBO for such options. Such determination may be made by way of notification from another market that its quotes are firm; administrative message from OPRA; and/or telephonic or electronic inquiry to, and verification from, another market that its quotes are firm.

MRX's Options 2, Section 5(d) describes Firm Quote for purposes of Market Maker quote submission. The Exchange proposes to memorialize within its Rules the requirement for the dissemination of quotations pursuant to Reg NMS.[6] The Exchange is proposing to add the above rule text to provide context as to this restriction for submitting quotes. The Exchange proposes to make clear the manner in which quote relief will occur. Specifically, this proposed rule text indicates the manner in which a determination for quote relief is made. Further, the rule notes the Exchange shall maintain a record of each instance in which another exchange's quotes are excluded from the Exchange's calculation of NBBO, and shall notify such other exchange that its quotes have been so excluded. Also, when relief is no longer available, such quotations will be included in the calculation of NBBO for such options. The Exchange notes how the determination is made that relief is no longer available. The proposed rule text adds greater context to the manner in which Firm Quote

[4] Options 2, Section 5(a) provides, ''Options Classes. A quotation only may be entered by a Market Maker, and only in the options classes to which the market maker is appointed under Options 2, Section 3.'' Options 2, Section 5(d) provides for Firm Quotes.

[5] Options 3, Section 8(c) provides, ''Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 a.m. Eastern Time are included in the Opening Process. Orders entered at any time before an option series opens are included in the Opening Process.''

[6] 17 CFR 242.602.

relief is applied. This rule text represents the current practice.

Similarly, the Exchange proposes to provide the following at proposed new Options 3, Section 4(b)(6):

Trade-Through Compliance and Locked or Crossed Markets. A quote will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. If, at the time of entry, a quote would cause a locked or crossed market violation or would cause a trade-through violation, it will either re-priced and displayed at one minimum price variance above (for offers) or below (for bids) the national best price or immediately cancelled, as configured by the Member.

Today, quotations may not be executed against at prices that trade-through an away market as provided for in the Options Order Protection and Locked/Crossed Market Plan which is described within Options 5. Also, quotations may not lock or cross an away market. By stating this limitation in the rule, Market Makers will have greater clarity as to this limitation. Further, the Exchange is making clear that a quote that would cause a locked or crossed market violation or would cause a trade-through violation will be re-priced. The Exchange would display the quote at one minimum price variation (''MPV'') above (for offers) or below (for bids) the national best price or the quote would be immediately cancelled if requested by the Member. Repricing quotes is consistent with the Act because the Exchange is not permitted to lock or cross an away market's quote or order. The Exchange reprices the quotes one MPV inferior to cause the displayed price to reflect the available market on the Exchange.

Finally, the Exchange proposes at Options 3, Section 4(b)(7) to provide, ''Quotes submitted to the System are subject to the following: Minimum increments provided for in Options 3, Section 3 and risk protections provided for in Options 3, Section 15.'' If the Market Maker does not submit a quotation compliant with Options 3, Section 3, the quote will not be accepted by the System. The Exchange is noting herein the manner in which a quote may be rejected by the System to provide market participants with expectations as to the interplay among the various Exchange Rules. Specifically, if the Market Maker does not submit a quotation compliant with Options 3, Section 3, the quote will not be accepted by the System because market participants are required to abide by Options 3, Section 3 which describes the increments with which options series are to be quoted. Options 3, Section 15 provides a list of all protections applicable to quotes that may be rejected. The Exchange believes that this rule will provide Members with requirements and conditions for submitting quotations and provide transparency as to limitations that cause a quote to be rejected.

The Exchange proposes to provide at Options 3, Section 4(c), ''Quotes will be displayed in the System as described in Options 3, Section 23.'' Options 3, Section 23, titled ''Data Fees and Trade Information'' provides for the available feeds that Members may access on the Exchange. This list represents the available data feeds and the content of those data feeds which are offered today by the Exchange.

As discussed in more detail below, the Exchange proposes to relocate current Options 3, Section 4(b) [7] to new Options 3, Section 5(a)(5) as described below in greater detail.

The amendment to Options 3, Section 4 to create a list of all the requirements and conditions for submitting quotes on the Exchange within one rule is consistent with the Act because it will provide greater transparency to market participants of the applicable requirements. Further, this proposal will make the current rule clear and understandable for market participants thereby protecting investors and the general public. The Exchange notes that while some of these requirements appear in other rules, for ease of reference the requirements are located within a single rule with this proposal. The proposal reflects the Exchange's current practice with respect to quoting requirements. This proposal will conform this Rule to other Nasdaq affiliated markets filing similar rules.[8] The Exchange's proposal is intended to provide greater information with respect to Firm Quote within new Options 3, Section 4(b)(5) and regarding trade-through and locked and crossed markets Options 3, Section 4(b)(6). The addition rule text is consistent with the Act because the Exchange is adding detail regarding the method in which orders which are firm or locked and crossed will be handled in the System. The notifications for Firm Quote are made clear with the proposed rule text. The Exchange believes that it is consistent with the Act to specify when quotes are firm and the handling of such quotes by the System for the protection of investors and the general public. The clarity is designed to promote just and equitable principles of trade by notifying all participants engaged in market making of potential outcomes. Today, quotations may not be executed against at prices that trade-through an away market. Also, quotations may not lock or cross an away market. The repricing of quotations is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. The Exchange is required avoiding displaying a quotation that would lock or cross a quotation of another market center at the time it is displayed. Preventing inferior prices from displaying perfects the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Options 3, Section 5, Entry and Display of Single-Leg Orders

Similar to Options 3, Section 4, which describes requirements for quotes, the Exchange proposes to adopt a new Options 3, Section 5, ''Entry and Display of Single-Leg Orders'' and describe the current requirements and conditions for entering orders. The Exchange notes that the requirements provided for within this rule represent the current practice. The purpose of Options 3, Section 5 is to memorialize this information within a single rule.

The Exchange proposes to state within new Options 3, Section 5(a), ''Members can enter orders into the System, subject to the following requirements and conditions:''. The Exchange proposes within new Options 3, Section 5(a)(1), ''Members shall be permitted to transmit to the System multiple orders at a single as well as multiple price levels.'' The Exchange's new rule text at Options 3, Section 5(a) proposes to make clear that multiple orders may be transmitted to the System as single or multiple price levels. This is the case today. The Exchange proposes to memorialize the manner in which orders may be submitted to the

[7] Current Options 3, Section 4(b) provides, ''A trade may be nullified if all parties participating in the trade agree to the nullification. In such case, one party must notify the Exchange and the Exchange promptly will disseminate the nullification to OPRA.''

[8] *See* Phlx Rule 1019. Nasdaq BX, Inc. and Nasdaq Stock Market LLC intend to file similar rules. Phlx Rule 1019 is similar to MRX Options 3, Section 4 except that Phlx displays and reprices quotes differently than MRX for purposes of trade-through. Phlx re-prices to the current national best offer (for bids) or the current national best bid (for offers) but displays at one minimum price variance above (for offers) or below (for bids) the national best price. MRX re-prices and displays quotes at one minimum price variance above (for offers) or below (for bids) the national best price, or, in the alternative if elected by the Member, the quote is otherwise immediately cancelled if it would cause a locked or crossed market. Further, while Phlx has a Quote Exhaust feature as described in Phlx Rule 1082, MRX has no similar feature.

System to add more detail to its rules. The Exchange proposes at new Options 3, Section 5(a)(2), ''The System accepts orders beginning at a time specified by the Exchange and communicated on the Exchange's website.'' The System accepts orders beginning at a time specified by the Exchange and communicated on the Exchange's website.[9]

The Exchange proposes at new Options 3, Section 5(a)(3), ''The System shall time-stamp an order which shall determine the time ranking of the order for purposes of processing the order.'' Further, all orders are time-stamped to determine the time ranking of the order for purposes of processing the order within the System. This is also the case today and the Exchange is adding this detail to its rules to describe the time-stamp.

The Exchange proposes to add at new Options 3, Section 5(a)(4), ''Orders submitted to the System are subject to the following: minimum increments provided for in Options 3, Section 3, risk protections provided for in Options 3, Section 15, and the restrictions of any order type as provided for in Options 3, Section 7. Orders may execute at multiple prices.'' All orders must adhere to other rule requirements such as minimum increments, risk protection rules and order types. Similar to the rule text for quotes, orders are currently subject the minimum increment requirements in Options 3, Section 3 and also the risk protections for orders which are listed within current Options 3, Section 15. This rule provides a list of other requirements which may impact the execution of an order. Finally, orders may execute at multiple prices.

The Exchange proposes to add to new Options 3, Section 5(a)(5) the following, ''Nullification by Mutual Agreement. Trades may be nullified if all parties participating in the trade agree to the nullification. In such case, one party must notify the Exchange and the Exchange promptly will disseminate the nullification to OPRA. It is considered conduct inconsistent with just and equitable principles of trade for a party to use the mutual adjustment process to circumvent any applicable Exchange rule, the Act or any of the rules and regulations thereunder.'' The rule text of new Options 3, Section 5(a)(5) is relocated from Options 3, Section 4(b) because it related to orders. The Exchange proposes to caption proposed Options 3, Section 5(a)(5) as ''Nullification by Mutual Agreement'' and add the following sentence to this provision, ''It is considered conduct inconsistent with just and equitable principles of trade for a party to use the mutual adjustment process to circumvent any applicable Exchange rule, the Act or any of the rules and regulations thereunder.'' The Exchange believes that it is consistent with the Act to permit parties to agree to a nullification provided the nullification does not violate other exchange rules. The Exchange notes that parties may not agree to a mutual agreement for purposes that would cause another rule to be violated. The Exchange believes that it is consistent with the Act and protection of investors and general public to make clear the expected behavior with respect to nullifications.

The rule text at proposed Options 3, Section 5(b) is relocated from Options 3, Section 15(a). The Exchange notes that this NBBO Protection applies to orders and therefore is being discussed within proposed Options 3, Section 5, which applies to all market participants. In contrast, Options 3, Section 4, which applies to quotes entered by Market Makers, describes the Firm Quote protections and the interplay of NBBO with respect to quotes. Trade-Through is described in both Options 3, Sections 4 and 5. The Exchange proposes to change the word ''rejected'' to ''cancelled'' within new Options 3, Section 5(b) because an order may be accepted by the System and then immediately cancelled. New Options 3, Section 5(c) seeks to define the Exchange's best bid and offer as the ''BBO.'' The Exchange provides, ''The System automatically executes eligible orders using the Exchange's displayed best bid and offer (''BBO'').''

Similar to Options 3, Section 4(b)(6), the Exchange proposes to note at new Options 3, Section 5(d),

Trade-Through Compliance and Locked or Crossed Markets. An order will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. An order that is designated by the Member as routable will be routed in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions. Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be cancelled automatically by the System at the time of receipt.

Today, orders may not be executed at a price that trades through an away market. Also, orders may not lock or cross an away market. Routable orders must comply with Trade-Through and Locked and Crossed Markets restrictions. Finally, the Exchange proposes to cross-reference Supplementary Material .02 to Options 5, Section 2 to describe the manner in which orders that are not automatically executed are handled. Today, Members may specify that a Non-Customer order should instead be cancelled automatically by the System at the time of receipt. By including this information within this rule, the Exchange proposes to provide Members with information related to trade-through in one location with cross-references to provide transparency. This rule text is similar to rule text within BX Chapter VI, Section 7(b)(3)(C). Noting these limitations within the rule is consistent with the Act because Members will have greater clarity as to limitations.

Finally, the Exchange proposes to add rule text at new Options 3, Section 5(e), similar to Options 3, Section 4(c) which states, ''Orders will be displayed in the System as described in Options 3, Section 23.''

The Exchange's proposal to adopt a new Options 3, Section 5, ''Entry and Display of Orders'' and describe the current requirements and conditions for entering orders, similar to proposed changes to Options 3, Section 4 for quotes is consistent with the Act because it will provide transparency as to manner in which orders may be submitted to the System. The Exchange's new rule reflects the current requirements for submitting orders into the System. Similar to proposed Options 3, Section 4, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference.[10]

[9] The Exchange's website makes the timeframes in which orders may be submitted to the System: *https://business.nasdaq.com/media/MRXSystemSetting_tcm5044-41351.pdf.*

[10] Phlx Rule 1096 is similar to MRX Options 3, Section 5. With respect to NBBO Protection, unlike Phlx, MRX Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be accepted and immediately cancelled automatically by the System at the time of receipt. Phlx does not have a similar exposure mechanism. Also, with respect to trade-through, Phlx re-prices an order that would cause a locked or crossed market violation or would cause a trade-through violation to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one minimum price variance above (for offers) or below (for bids) the national best price. While MRX will not execute an order at a price that trades through another market or display an order at a price that would lock or cross another market, MRX does not re-price orders. MRX Members may specify that a Non-Customer order should instead be cancelled automatically by the System at the time of receipt.

Options 3, Section 7, Types of Orders

The Exchange proposes to amend Supplementary Material .03(c) to Options 3, Section 7 to add the following sentence to Specialized Quote Feed (''SQF''), ''Market Makers may only enter interest into SQF in their assigned options series.'' The Exchange notes that today Market Makers may utilize SQF to quote only in their assigned options series as provided for in Options 2, Section 3, Appointment of Market Makers. Adding this information to the SQF protocol is consistent with the Act because the Exchange desires to make clear the manner in which Market Makers may submit quotes through the protocol. Market Makers are obligated to provide liquidity on MRX in the options series to which they are assigned, which liquidity benefits all market participants. This amendment is similar to language currently within Phlx Rule 1080(a)(i)(B).

Options 3, Section 15 Simple Order Risk Protections

The Exchange proposes to delete the first sentence introductory sentence of Options 3, Section 15 which provides, ''Incoming orders that are executable against orders and quotes in the System will be executed automatically by the System subject to the following:'' and relocate the rule text to Options 3, Section 5 as described herein as well as Section 15(a)(1) and (a)(2), into proposed new Options 3, Section 5(b) and renumber Options 3, Section 15(b) as new ''a.'' The Exchange proposes to relocate current Options 3, Section 15(b)(1)(C) to Options 3, Section 15(b)(2)(B). Current Options 3, Section 15(b)(1)(D) will be re-lettered as ''C''. Options 3, Section 15(b)(1) provides for single-leg order risk protections. The Exchange proposes to relocate the Size Limitation protection to Options 3, Section 15(b)(2) because this section applies to order and quote risk protections. Size Limitation protection applies to both orders and quotes and is therefore properly placed within this section. The Exchange proposes to add the words ''or quote'' to the description to make clear that this protection applies to both orders and quotes. The Exchange believes that relocating this rule and adding ''or quotes'' is consistent with the Act because the Exchange will make clear that the Size Limitation risk protection would apply to all interest on the Exchange.

Options 3, Section 22, Limitation on Orders

The Exchange proposes to amend Options 3, Section 22 to retitle the Section from ''Limitations on Orders'' to ''Limitations on Order Entry.'' The Exchange believes that this title is more appropriate for these rules.

The Exchange proposes to amend Options 3, Section 22(b) to amend the title of the section from ''Principal Transactions'' to ''Limitations on Principal Transactions.'' This rule provides for the exposure of orders entered on the Exchange. Specifically, with respect to orders entered when a Member is acting as agent and principal on an order, the order must be exposed for one second prior to execution to allow an opportunity for price improvement. The Exchange has filed for certain functionalities which are exceptions to the general standard of one second exposure. These functionalities have provisions which describe the manner in which orders can be entered into the Facilitation Mechanism,[11] Price Improvement Mechanism,[12] Qualified Contingent Cross Orders,[13] Customer Cross Orders [14] and Complex Order Exposure.[15] The Exchange proposes to separately note that with respect to the Solicitation Mechanism,[16] that an Options Member may electronically submit for execution an order it represents as agent against solicited order(s). Options 3, Section 11(d) and (e) provide that an Agency Order must be for at least the minimum size designated by the Exchange, which may not be less than 500 standard option contracts, and the order be entered into the Solicited Order Mechanism shall be designated as all-or-none. Because a Member may not execute as principal on the order, there must be an Agency Order which executes against the solicited order; therefore, the Solicitation Mechanism is explicitly carved out from proposed Options 3, Section 22(b), whereas the other auctions noted are exceptions to the general one second rule. The Exchange believes it is consistent with the Act and the protection of investors and the general public to describe the functionalities available on the Exchange into which a Member may enter principal orders they represent as agent. Options 3, Section 22 is intended to encourage price discovery and price improvement of all orders entered on the Exchange.

The Exchange proposes to relocate Supplementary Material .01 to Options 3, Section 22 to new Section 22(b)(i) and state ''This Rule'' instead of ''Options 3, Section 22(d).'' The Exchange notes that the references to ''d'' should refer to ''b'' and those cross-references are being updated.

The Exchange proposes to amend the title of Options 3, Section 22(c), from ''Solicitation Orders'' to ''Limitation on Solicitation Orders.'' The Exchange proposes to add exceptions for *Qualified Contingent Cross Orders pursuant to Options 3, Section 12(c) and (d), Customer Cross Order pursuant to Options 3, Sections 12(a) or (b) and a Complex Order Exposure pursuant to Supplementary Material .01 to Options 3, Section 14* similar to proposed Options 3, Section 22(b).

The Exchange proposes to re-letter current ''d'' as ''e'' as the Exchange proposes new rule text at proposed Options 3, Section 22(d) which provides, ''Prior to or after submitting an order to MRX, a Member cannot inform another Member or any other third party of any of the terms of the order for purposes of violating this Rule.'' Similar rule text is contained in The Nasdaq Options Market LLC (''NOM'') Rules.[17] The Exchange believes that adding this language will better inform participants that Options 3, Section 22 prohibits such behavior. The Exchange desires to conform the language in this rule to that of affiliated Nasdaq markets. The Exchange notes that similar language is currently contained within Supplementary Material .02 to Options 3, Section 22 which provides,

It will be a violation of Options 3, Section 22(e) for an Electronic Access Member to cause the execution of an order it represents as agent on the Exchange by orders it solicited from Members and non-Member broker-dealers to transact with such orders, whether such solicited orders are entered into the System directly by the Electronic Access Member or by the solicited party (either directly or through another Member), if the Member fails to expose orders on the Exchange as required by Options 3, Section 22(e).

This rule text is repetitive of the provisions within current Options 3, Section 22(c). The Exchange is clearly providing within Options 3, Section 22(c) that a Member must expose an order for one second. Further, the Member cannot inform another Member or third party of the terms of the order,

[11] *See* Options 3, Section 11(b) and (c).

[12] *See* Options 3, Section 13.

[13] *See* Options 3, Section 12(c) and (d).

[14] *See* Options 3, Section 12(a) and (b).

[15] *See* Supplementary Material .01 to Options 3, Section 14.

[16] *See* Options 3, Section 11(d) and (e).

[17] *See* NOM Rules at Chapter VII, Section 12 at Commentary .04.

which would be a violation of the rule pursuant to proposed Options 3, Section 22(c). The Exchange does not believe that the rule text within Supplementary Material .02 to Options 3, Section 22 provides additional information, but rather is repetitive of the prohibitions within the rule, as proposed.

The Exchange proposes to update the rule citations in Supplementary Material .01 to Options 3, Section 22 to refer to paragraph ''b'' instead of ''d''. The Exchange proposes to update the rule numbers for the remainder of the Rule and also update the cross-reference in Supplementary Material .04 to Options 3, Section 22.

The Exchange proposes to make clear with this Rule that Members may not gain by failing to expose orders submitted on an agency basis. The Exchange is promoting transparency of orders to prevent Members from seeking price discovery and potentially preventing price improvement, which may result from exposing an order. The Exchange's proposal to amend Options 3, Section 22 will conform this Rule to other Nasdaq affiliated markets filing similar rules.[18] The Exchange's proposal to add rule text to describe potential violations of this Rule will bring greater clarity to current limitations that exist when entering orders. The amendments to Options 3, Section 22 are consistent with the Act because the Rule provides a list of limitations when entering order on the Exchange. The Exchange believes the proposed rule will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because it will continue to make clear the requirement to expose orders as well as present more specific limitations on order entry which would violate Exchange Rules. Providing Members with more information as to the type of behavior that is violative with respect to order exposure will prevent inadvertent violations of Exchange rules and ensure that orders are subject to appropriate price discovery.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of 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 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.

Options 3, Section 4, Acceptance of Quote and Orders

The Exchange's proposal to add a new section (b) to Options 3, Section 4 to describe the current requirements and conditions for submitting quotes are consistent with the Act. The Exchange is memorializing its current practice by reflecting the various requirements and limitations for quote entry in one rule for ease of reference and clarity. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges. Making clear the manner in which Market Makers may generate and submit option quotations will provide these market participants with clear guidance within the rules. The Exchange notes that other rules already limit the use of quotations on the Exchange. Options 2, Section 5 makes clear that Market Makers may submit quotes.[21] Supplementary Material .03(c) to Options 3, Section 7 describes the SQF interface.[22] Options 2, Section 4(b)(4) provides the allowable spread for entering bids and offers on the Exchange. Further, the Exchange is making clear that only one quote may be submitted at a time for a series. The Exchange believes that memorializing these restrictions will bring greater clarity to the Exchange's rules. Also, the Exchange believes that making clear that quotes may be entered as specified by the Exchange makes clear that all Market Makers are subject to uniform requirements for quoting.

The Exchange's proposal to add a provision regarding Firm Quote within new Options 3, Section 4(b)(5) will bring greater transparency to the limitations that Market Makers have today with respect to firm quote. MRX's Options 2, Section 5(d) describes firm quote for purposes of Market Maker quote submission. The Exchange is proposing to add rule text to provide context as to this restriction for submitting quotes. The proposed rule text makes clear the manner in which Firm Quote relief is applied. The Exchange believes it is consistent with the Act to provide greater detail as to the current obligations for Market Makers with respect to firm quote. The addition rule text is consistent with the Act because the Exchange is adding detail regarding the method in which orders which are firm or locked and crossed will be handled in the System. The notifications for Firm Quote are made clear with the proposed rule text. The Exchange believes that it is consistent with the Act to specify when quotes are firm and the handling of such quotes by the System for the protection of investors and the general public. The clarity is designed to promote just and equitable principles of trade by notifying all participants engaged in market making of potential outcomes. Further, the Exchange's proposal to add more detail at proposed new Options 3, Section 4(b)(6) regarding trade-through and locked and crossed markets is consistent with the Act. Today, quotations may not be executed against at prices that trade-through an away market. Also, quotations may not lock or cross an away market. By stating this limitation in the rule, Members will have greater clarity as to this limitation. The repricing of quotations is consistent with the Act because repricing prevents the Exchange from disseminating a price which locks or crosses another market. The Exchange's proposal to note that quotes are subject to minimum increments provided for in Options 3, Section 3 and risk protections provided for in Options 3, Section 15 is consistent with the Act because this rule brings greater transparency to these requirements which are already noted in the aforementioned rules. Options 2, Section 5(b)(1) similarly requires a Market Maker to quote in the minimum increments specified in Options 3, Section 3. Options 3, Section 15, titled ''Simple Order Risk Protections'' provides a list of all protections applicable to quotes that may cause an order to be rejected. The Exchange believes that this rule will provide Market Makers with requirements and conditions for submitting quotations and provide transparency as to limitations that cause a quote to be rejected.

The Exchange's proposal to make clear that quotes will be displayed in the System as described in Options 3, Section 23 is intended to bring greater transparency as to the data available on the Exchange. Options 3, Section 23, titled ''Data Fees and Trade Information'' provides for the available feeds that Members may access on the Exchange.

[18] Nasdaq BX, Inc. and Nasdaq Stock Market LLC are also adopting similar rules to Phlx Rule 1097.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] Options 2, Section 5(a) provides, ''Options Classes. A quotation only may be entered by a market maker, and only in the options classes to which the market maker is appointed under Options 2, Section 3.'' Options 2, Section 5(d) provides for Firm Quote.

[22] Supplementary Material .03(c) to Options 3, Section 7 provides ''Specialized Quote Feed'' or ''SQF'' is an interface that allows market makers to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses to the Exchange. Market Makers on MRX can only submit quotes and orders through SQF in their assigned options series.

Options 3, Section 5, Entry and Display of Single-Leg Orders

The Exchange proposes to retitle Options 3, Section 5 as ''Entry and Display of Single-Leg Orders'' to describe the current requirements and conditions for entering orders, similar to proposed changes to Options 3, Section 5 for quotes is consistent with the Act because it will provide transparency as to manner in which orders may be submitted to the System. The Exchange's new rule text memorializes the current requirements for submitting orders into the System. Similar to proposed Options 3, Section 4, the Exchange proposes to memorialize requirements and limitations within one rule for ease of reference.

The Exchange's new rule text at Options 3, Section 5(a) proposes to make clear that multiple orders may be transmitted to the System as single or multiple price levels to add greater transparency to the Exchange's rules. The Exchange proposes to memorialize the manner in which orders may be submitted to the System to add more detail to its rules. For example, the time the System begins accepting orders, information concerning the time-stamp, which determines the time ranking of the order, as well as restrictions to order entry. Orders submitted to the System are subject to minimum increments specified in Options 3, Section 3 risk protections provided for in Options 3, Section 15, and the restrictions of any order type as provided for in Options 3, Section 7. The Exchange believes that listing the requirements and limitations is consistent with the Act because it will provide Members with the information necessary to process orders on MRX. In addition, noting that parties may not agree to a mutual agreement for purposes that would cause another rule to be violated is consistent with the Act because it provides transparency to Members that certain behavior would cause a rule violation. The Exchange believes that this provision protects investors and the public interest because it specifically prohibits market manipulation within propose new rule. The Exchange's proposal to define both the Exchange's best bid and offer as the ''BBO'' is consistent with the Act because it provides context to the usage of these terms in the Rulebook. The Exchange notes, within Options 3, Section 7, the orders are displayed and non-displayed.

Further, the Exchange's proposal to add more detail at proposed new Options 3, Section 5(d) regarding trade-through and locked and crossed markets is consistent with the Act. Today, orders may not be executed against at prices that trade-through an away market. Also, orders may not lock or cross an away market. Routable orders must comply with Trade-Through and Locked and Crossed Markets restrictions. By stating this limitation in the rule, Members will have greater clarity as to this limitation. The rule also seeks to aggregate information relating to trading –through so as to provide Members with clear guidelines for submitting orders.

The Exchange's proposal to make clear that orders will be displayed in the System as described in Options 3, Section 23 is intended to bring greater transparency as to the data available on the Exchange. Options 3, Section 23 titled ''Data Fees and Trade Information'' provides for the available feeds that Members may access on the Exchange.

Options 3, Section 7, Types of Orders

The Exchange's proposal to amend Supplementary Material .03(c) to Options 3, Section 7 to make clear that Market Makers may only enter interest into SQF in their assigned options series is consistent with the Act. Options 2, Section 3, Appointment of Market Makers, describes the manner in which Market Makers are appointed in options series. This sentence simply provides that SQF may only be utilized for quoting in assigned options series.

Options 3, Section 15, Simple Order Risk Protections

The Exchange's proposal to relocate Options 3, Section 15(a) [23] into proposed new Options 3, Section 5(b) is consistent with the Act because this rule text relates to orders, which topic is described within new Options 3, Section 5. The proposal to relocate Size Limitation to make clear that this risk protection impacts orders and quotes will bring greater transparency to this risk protection.

Options 3, Section 22, Limitation on Orders

The Exchange's proposal to amend Options 3, Section 22 to list all the exceptions to the exposure requirement is consistent with the Act because this rule change will bring greater clarity to the Rulebook. The Exchange is adding rule text currently contained in a NOM rule to describe the required period that orders are to be exposed.[24] The Exchange believes the additional language provided context and further explains the exceptions. The Exchange believes that this rule is consistent with the Act because with the addition of this language the rule more specifically describes the limitations to behavior on the Exchange with respect to order exposure and the necessity to conduct price discovery. The rule also describes behavior that would violate Options 3, Section 22 depending on the relationship of the parties and exchange of information. Listing all of the mechanism available on the Exchange will make clear the manner in which a Member may execute as principal orders they represent as agent. Further, explicitly excluding the Solicitation Mechanism will make clear that the particular auction is not an exception to the one second rule. The Exchange's proposal to relocate rule text to create topic headings and discuss each topic discretely will bring greater clarity to this rule text. The Exchange's proposal to add a new Options 3, Section 22(c) will make clear that a Member cannot inform another Member or any other third party of any of the terms of the order in violation of this rule. Options 9, Section 9, titled ''Prevention of the Misuse of Material Nonpublic Information,'' prohibits such activity today. This rule text is contained in NOM Rules.[25] The Exchange desires to conform the language in this rule to that of affiliated Nasdaq markets. Finally, updating the cross-references will make clear the manner in which a Member may enter orders on the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Options 3, Section 4, Acceptance of Quote and Orders

The Exchange's proposal to add a new section (b) to Options 3, Section 4 to describe the current requirements and conditions for submitting quotes does not impose an undue burden on competition because the Exchange is memorializing its current practice by reflecting the various requirements and limitations in one rule for ease of

[23] Options 5, Section 15(a) provides, ''NBBO Price Protection. Orders, other than Intermarket Sweep Orders (as defined in Options 5, Section 1(h)), will not be automatically executed by the System at prices inferior to the NBBO (as defined in Options 5, Section 1(j)). (1) Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 3; provided that Members may specify that a Non-Customer order should instead be rejected automatically by the System at the time of receipt. (2) There is no NBBO price protection with respect to any other market whose quotations are Non-Firm (as defined in Options 5, Section 1(k)).''

[24] *See* Chapter VII, Section 12.

[25] *See* Chapter VII, Section 12 at Commentary .04.

reference and clarity and all Market Makers are subject to the these requirements today. The Exchange is memorializing its current practice by reflecting the various requirements and limitations for quote entry in one rule for ease of reference and clarity. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges.

Options 3, Section 5, Entry and Display of Orders

The Exchange's proposed new Options 3, Section 5 describes the requirements and conditions pursuant to which Members can enter orders into the System. The Exchange's proposal does not impose an undue burden on competition because it applies uniformly to all Members. This rule memorializes the manner in which orders may be submitted to the System and provides transparency as to manner in which orders may be submitted to the System. The Exchange is also proposing to conform this rule to similar rules across other Nasdaq affiliated exchanges.

Options 3, Section 7, Types of Order

The Exchange's proposal to amend Supplementary Material .03(c) to Options 3, Section 7 to make clear that Market Makers may only enter interest into SQF in their assigned options series does not impose an undue burden on competition, rather it makes clear that SQF may only be utilized for quoting in assigned options series. This rule is applicable to all Market Makers.

Options 3, Section 15, Simple Order Risk Protections

The Exchange's proposal to relocate Options 3, Section 15(a) into proposed new Options 3, Section 5(b) does not impose an undue burden on competition because this rule text relates to orders, which topic is described within new Options 3, Section 5. Relocating the Size Limitation protection to another section of the rule to make clear it applies to quotes and orders will bring greater transparency to this rule.

Options 3, Section 22, Limitation on Orders

The Exchange's proposal to amend Options 3, Section 22 to list all the exceptions to the exposure requirement does not impose an undue burden on competition because this rule change will bring greater clarity to the Rulebook. The Exchange's proposal to relocate rule text to create topic headings and discuss each topic discretely will bring greater clarity to this rule text. The Exchange's proposal to add a new Options 3, Section (c) will make clear the type of behavior that would cause a Member to violate Options 3, Section 22 when disclosing information to another Member or any other third party with respect to the terms of the order.

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 [26] and subparagraph (f)(6) of Rule 19b–4 thereunder.[27]

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–MRX–2019–20 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–2019–20. 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–2019–20, and should be submitted on or before October 28, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Jill M. Peterson,

Assistant Secretary.

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[26] 15 U.S.C. 78s(b)(3)(A)(iii).

[27] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change 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.

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87191; File No. SR–NASDAQ–2019–079]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the First Trust Low Duration Opportunities ETF

October 1, 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 17, 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 a rule change relating to the First Trust Low Duration Opportunities ETF (formerly known as the First Trust Low Duration Mortgage Opportunities ETF) (the ''Fund'') of First Trust Exchange-Traded Fund IV (the ''Trust''), the shares of which have been approved by the Commission for listing and trading under Nasdaq Rule 5735 (''Managed Fund Shares''). The shares of the Fund are collectively referred to herein as the ''Shares.''

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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission has approved the listing and trading of Shares under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange.[3] The Exchange believes the proposed rule change reflects no significant issues not previously addressed in the Prior Release.

The Fund is an actively-managed exchange-traded fund (''ETF''). The Shares are offered by the Trust, which was established as a Massachusetts business trust on September 15, 2010. The Trust, which is registered with the Commission as an investment company under the Investment Company Act of 1940 (the ''1940 Act''), has filed a registration statement on Form N–1A (''Registration Statement'') relating to the Fund with the Commission.[4] The Fund is a series of the Trust. The Adviser is the investment adviser to the Fund. First Trust Portfolios L.P. is the principal underwriter and distributor of the Fund's Shares. The Bank of New York Mellon (''BNY'') acts as the administrator, custodian, and fund accounting and transfer agent to the Fund.

The purpose of this proposed rule change is to modify certain provisions set forth in the Prior Notice that (1) under normal market conditions, (a) require the Fund to invest at least 80% of its net assets in ''Mortgage-Related Investments'' and (b) limit the Fund's investments in certain debt securities, money market funds and other cash equivalents, and cash (in the aggregate) to 20% of its net assets; (2) pertain to the Fund's ability to invest in securitized products; and (3) pertain to the Fund's ability to invest in derivative instruments.

[3] The Commission approved Nasdaq Rule 5735 in Securities Exchange Act Release No. 57962 (June 13, 2008), 73 FR 35175 (June 20, 2008) (SR–NASDAQ–2008–039). The Commission previously approved the listing and trading of the Shares of the Fund. *See* Securities Exchange Act Release Nos. 72281 (May 30, 2014), 79 FR 32586 (June 5, 2014) (the ''Prior Notice'') and 72607 (July 15, 2014), 79 FR 42386 (July 21, 2014) (the ''Prior Order'' and, together with the Prior Notice, the ''Prior Release'') (SR–NASDAQ–2014–057).

[4] *See* Post-Effective Amendment No. 163 to Registration Statement on Form N–1A for the Trust, dated February 27, 2019 (File Nos. 333–174332 and 811–22559). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement, as amended. First Trust Advisors L.P. (the ''Adviser'') represents that the Adviser will not implement the changes described herein until the instant proposed rule change is operative.

(1) Proposed Changes Pertaining to the Investment Requirement, Short-Term/Cash Investments and Non-Mortgage Government Entity Securities

The Prior Notice stated that under normal market conditions, the Fund would seek to achieve its investment objectives by investing at least 80% of its net assets (including investment borrowings) in the mortgage-related debt securities and other mortgage-related instruments described therein (collectively referred to as ''Mortgage-Related Investments'') (the ''Investment Requirement''). Further, as indicated in the Prior Notice, the Mortgage-Related Investments in which the Fund is permitted to invest may be, but are not required to be, issued and/or guaranteed by Government Entities.[5] The Exchange is proposing that, going forward, (a) the Investment Requirement would be modified to require that the Fund invest at least 60% (rather than at least 80%) of its net assets in Mortgage-Related Investments, and (b) the Fund would be permitted to invest up to 40% of its net assets (in the aggregate) in Short-Term/Cash Investments (as defined below) and Non-Mortgage Government Entity Securities (as defined below)[6] (the ''40% Limit''). The Adviser believes that these modifications, by permitting the Fund to invest more conservatively, would enhance the Fund's overall credit and liquidity profile, permit it to be more defensive in nature in times of heightened market volatility, and facilitate its ability to manage its intended low duration mandate.[7]

Under the heading ''Other Investments'', the Prior Notice stated, among other things, that the Fund may invest up to 20% of its net assets in short-term debt securities, money market funds and other cash equivalents, or it may hold cash (the ''Short-Term/Cash Provision''). In this

[5] As stated in the Prior Notice, the U.S. government, its agencies and instrumentalities, and U.S. government-sponsored entities are referred to collectively as ''Government Entities''.

[6] As a related matter, with respect to footnote 16 of the Prior Notice and the accompanying sentence regarding the Fund's intention to invest primarily in investment grade securities, all Short-Term/Cash Investments and Non-Mortgage Government Entity Securities would be considered investment grade securities and no Short-Term/Cash Investments or Non-Mortgage Government Entity Securities would count toward the 20% limit that applies to securities that are below investment grade and securities that are unrated and have not been judged by the Adviser to be of comparable quality to rated investment grade securities, as described in such sentence.

[7] In this regard, the Adviser notes that generally, in a rising interest rate environment, mortgage rates also increase, which may lead to a decrease in refinancing activity, causing certain Mortgage-Related Investments to extend in duration and average life.

regard, the Prior Notice stated that short-term debt securities (a) are securities from issuers having a long-term debt rating of at least A by Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. (currently known as S&P Global Ratings) (''S&P Ratings''), Moody's Investors Service, Inc. (''Moody's'') or Fitch Ratings (''Fitch'') and having a maturity of one year or less and (b) are defined to include, without limitation, the following: (1) Fixed rate and floating rate U.S. government securities, including bills, notes and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. government agencies or instrumentalities (collectively, ''Short-Term Government Securities''); (2) certificates of deposit issued against funds deposited in a bank or savings and loan association; (3) bankers' acceptances, which are short-term credit instruments used to finance commercial transactions; (4) repurchase agreements,[8] which involve purchases of debt securities; (5) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; and (6) commercial paper,[9] which is short-term unsecured promissory notes (the short-term debt securities in which the Fund may currently invest that are listed in the preceding clauses (1) through (6) are referred to collectively as ''Current Short-Term Debt Securities''). The Exchange proposes that going forward, in lieu of the Short-Term/Cash Provision, the Fund would be permitted, in accordance with the 40% Limit, to invest up to 40% of its net assets (in the aggregate) in ''Short-Term/Cash Investments'', which would include only the following: (a) Current Short-Term Debt Securities and money market funds; (b) to the extent not included in (a), any cash equivalents that are included in Nasdaq Rule 5735(b)(1)(C) (''Generic Cash Equivalents''); and (c) cash.[10] For the avoidance of doubt, to the extent a security or other instrument in which the Fund invests meets both the definition of ''Short-Term/Cash Investment'' and the definition of ''Mortgage-Related Investment'',[11] such security or other instrument (a) would be taken into account for purposes of the Investment Requirement and (b) would not be taken into account for purposes of the 40% Limit.

In addition to the Short-Term/Cash Provision, under the heading ''Other Investments'', the Prior Notice also stated that the Fund may, in addition to its investments in Mortgage-Related Investments issued or guaranteed by Government Entities and in Short-Term Government Securities, invest up to 20% of its net assets in other direct obligations of the U.S. government and in other securities issued or guaranteed by Government Entities.[12] In lieu of the foregoing 20% limit, the Exchange proposes that, going forward, the Fund would be permitted, in accordance with the 40% Limit, to invest up to 40% of its net assets in Non-Mortgage Government Entity Securities.[13] For the avoidance of doubt, any Mortgage-Related Investments issued and/or guaranteed by Government Entities [14] (a) would be taken into account for purposes of the Investment Requirement and (b) would not be taken into account for purposes of the 40% Limit.

As described in the Prior Notice under the heading ''Principal Investments'', the Fund may invest in mortgage dollar rolls [15] and to-be-announced transactions (''TBA Transactions'' [16]) and, to the extent required under applicable federal securities laws, rules, and interpretations thereof, the Fund will ''set aside'' liquid assets or engage in other measures to ''cover'' open positions held in connection with such transactions. Further, as described in the Prior Notice under the heading ''Other Investments'', the Fund may invest in exchange-listed U.S. Treasury futures contracts.[17] The Fund may invest in such contracts for various purposes, such as to obtain net long or short exposures to selected interest rates or durations or to hedge risks associated with other Fund investments. In conjunction with, and in furtherance of, the proposed changes described above, the Exchange is proposing that going forward, to the extent the Fund ''sets aside'', earmarks, holds or otherwise takes measures utilizing Short-Term/Cash Investments for purposes of collateralizing or covering long positions held in connection with mortgage dollar rolls and/or TBA Transactions and/or other forward-settling Mortgage-Related Investments transactions (*i.e.,* purchase transactions involving Mortgage-Related Investments that settle on a date that is later than the trade date/purchase date) and/or exchange-listed U.S. Treasury futures contracts, such Short-Term/Cash Investments would be counted toward the Investment Requirement rather than the 40% Limit. As such, the Fund would be able to maximize its ability to use Short-Term/Cash Investments included within the 40% Limit for other purposes (*e.g.,* providing income and liquidity, and preserving capital for temporary or defensive purposes).

The Exchange does not believe that the proposed changes relating to the Investment Requirement, the Short-Term/Cash Provision and the Fund's ability to invest in Non-Mortgage Government Entity Securities raise concerns. Rather, the Exchange believes that such proposed changes, by expanding the Fund's ability to invest in Short-Term/Cash Investments and Non-Mortgage Government Entity Securities

[8] The Prior Notice stated that the Fund intends to enter into repurchase agreements only with financial institutions and dealers believed by the Adviser to present minimal credit risks in accordance with criteria approved by the Board of Trustees of the Trust.

[9] The Prior Notice stated that the Fund may only invest in commercial paper rated A–1 or higher by S&P Ratings, Prime-1 or higher by Moody's, or F1 or higher by Fitch.

[10] To conform, the provision in the Prior Notice under the heading ''Other Investments'' permitting the Fund to invest ''up to 20% of its net assets in the securities of other investment companies, including money market funds . . . and other ETFs'' would be revised to exclude money market funds from such 20% limitation. In addition, to avoid inconsistency, the sentence in the Prior Notice under the heading ''Other Investments'' stating that the ''use of temporary investments will not be a part of a principal investment strategy of the Fund'' would be deleted.

[11] Mortgage-Related Investments are not required to have maturities that are greater than or less than any specific term.

[12] As noted in the Prior Notice (*see* footnote 20 thereof and the accompanying text), such investments may include, without limitation, U.S. government inflation-indexed securities.

[13] For purposes of this filing, direct obligations of the U.S. government and other securities issued and/or guaranteed by Government Entities that, in each case, are neither Mortgage-Related Investments nor Short-Term/Cash Investments are collectively referred to as ''Non-Mortgage Government Entity Securities''.

[14] These would include, without limitation, Ginnie Mae securities and Fannie Mae and Freddie Mac pass-through mortgage certificates, as referenced in footnote 10 and the accompanying text of the Prior Notice.

[15] As described in the Prior Notice, in a mortgage dollar roll, the Fund will sell (or buy) mortgage-backed securities for delivery on a specified date and simultaneously contract to repurchase (or sell) substantially similar (same type, coupon and maturity) securities on a future date. *See* footnote 13 of the Prior Notice and accompanying text.

[16] As described in the Prior Notice, a TBA Transaction is a method of trading mortgage-backed securities. TBA Transactions generally are conducted in accordance with widely-accepted guidelines, which establish commonly observed terms and conditions for execution, settlement and delivery. In a TBA Transaction, the buyer and the seller agree on general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to the settlement date. *See* footnote 14 of the Prior Notice and accompanying text.

[17] *See infra* with respect to proposed changes that would expand the Fund's ability to hold derivative instruments.

(and therefore, its ability to invest more conservatively), would enhance the Fund's overall credit and liquidity profile, permit it to be more defensive in nature in times of heightened market volatility, and facilitate its ability to manage its intended low duration mandate. In this regard, the Exchange notes that Short-Term/Cash Investments are generally short-term, liquid and of high credit quality,[18] and that Non-Mortgage Government Entity Securities are generally liquid and of high credit quality,[19] making them less susceptible than other asset classes both to price manipulation and volatility.

(2) Proposed Changes to Provisions Pertaining to Investments in Securitized Products

To provide the Fund with additional flexibility in seeking exposure to the securitized product marketplace, the Exchange is proposing that, going forward, the Fund would be permitted to invest up to 5% of its net assets in asset-backed securities (other than Mortgage-Related Investments) that are not Government Securities (such asset-backed securities are referred to as ''ABS''). Currently, as described in the Prior Notice, the Fund is required to limit its investments in Mortgage-Related Investments that are not Government Securities to 20% of its net assets (the ''20% Non-Government Limit''). Going forward, the Exchange is proposing that the 20% Non-Government Limit would be modified to provide that the Fund may invest up to 20% of its net assets, in the aggregate, in (a) Mortgage-Related Investments that are not Government Securities and (b) ABS; however, the Fund's investments in ABS would not exceed 5% of the Fund's net assets.[20]

The Exchange does not believe that the proposed changes raise concerns given that they would not increase the percentage of the Fund's net assets restricted by the 20% Non-Government Limit. Rather, a small portion of the Fund's assets could be allocated to ABS in order to give the Fund more diversified exposure to the securitized product marketplace, thereby potentially mitigating risk and permitting the Fund to benefit from relative value opportunities within the securitized product marketplace.[21] Further, the Exchange notes that the Fund would comply with Nasdaq Rule 5735(b)(1)(B)(v), which permits an actively-managed ETF to invest in non-agency, non-government-sponsored entity (''non-GSE'') and privately-issued mortgage-related and other asset-backed securities (collectively, ''Private ABS/MBS''), provided that such components do not account, in the aggregate, for more than 20% of the weight of the portfolio.[22]

(3) Proposed Changes to Provisions Pertaining to Investments in Derivative Instruments

Under the heading ''Other Investments'', the Prior Notice provided that under normal market conditions, the Fund may invest up to 20% of the value of its net assets in exchange-listed options on U.S. Treasury securities, exchange-listed options on U.S. Treasury futures contracts and exchange-listed U.S. Treasury futures contracts (the ''Derivatives Provision'').[23] Going forward, the Exchange is proposing that to provide the Fund with additional flexibility, the Derivatives Provision would be deleted and instead, the Fund would be permitted to hold listed and over-the-counter (''OTC'') derivatives to the extent permitted by the generic listing provisions of Nasdaq Rules

[18] In addition, under Nasdaq Rule 5735(b)(1)(C)(i), there is no limitation on the percentage of a portfolio invested in cash and Generic Cash Equivalents. Investments in Short-Term/Cash Investments that are not Generic Cash Equivalents may not comply with the fixed income generic listing provisions of Nasdaq Rule 5735(b)(1)(B) (collectively, the ''Fixed Income GLS''). However, the Exchange notes that the Commission has previously approved proposed rule changes to permit investments in high-quality short-term fixed income securities with maturities of up to 397 days that would not necessarily comply with the applicable requirements of the generic listing provisions for fixed income instruments of NYSE Arca, Inc. and Cboe BZX Exchange, Inc. *See, e.g.,* Securities Exchange Act Release Nos. 86698 (August 16, 2019), 84 FR 43823 (August 22, 2019) (SR–NYSEArca–2018–83) (iShares Bloomberg Roll Select Commodity Strategy ETF); and 83014 (April 9, 2018), 83 FR 16150 (April 13, 2018) (SR–CboeBZX–2017–023) (iShares Gold Strategy ETF).

[19] In addition, the Exchange notes that under the Prior Order, the Fund may invest without limitation in securities issued and/or guaranteed by Government Entities (referred to herein as ''Government Securities'') if they are also Mortgage-Related Investments. In conjunction with the proposed changes to the Investment Requirement described above, the proposed changes relating to Non-Mortgage Government Entity Securities would merely permit the Fund to invest to a greater extent in Government Securities that are not mortgage-related. In addition, the Exchange notes that Nasdaq Rule 5735(b)(1)(B)(ii), which generally requires that no component fixed income security represent more than 30% of the fixed income weight of a portfolio and that the five most heavily weighted component fixed income securities in a portfolio not in the aggregate account for more than 65% of the fixed income weight of the portfolio, includes exclusions for ''Treasury Securities'' and ''GSE Securities'' as defined in Nasdaq Rule 5735(b)(1)(B), which indicates that significant investments in such securities do not raise manipulation concerns.

[20] As a related matter, as a conforming change, the sentence set forth in footnote 11 of the Prior Notice would be modified to provide that (a) investments in Mortgage-Related Investments that are not Government Securities would be included for purposes of the Investment Requirement and (b) ABS are not Mortgage-Related Investments and, therefore, would not be included for purposes of the Investment Requirement.

[21] For the avoidance of doubt, however, the Fund could continue to invest up to 20% of its net assets in Mortgage-Related Investments that are not Government Securities so long as such investments, when aggregated with investments in ABS, do not exceed the 20% Non-Government Limit. Except as permitted by the 20% Non-Government Limit, the Fund's investments in Mortgage-Related Investments would consist of investments in Mortgage-Related Investments that are Government Securities.

[22] *See* Securities Exchange Act Release No. 86399 (July 17, 2019), 84 FR 35446 (July 23, 2019) (SR–NASDAQ–2019–054).

[23] The Derivatives Provision also included footnote 18 of the Prior Notice which stated, among other things, that the Fund would limit its direct investments in futures and options on futures to the extent necessary for the Adviser to claim the exclusion from regulation as a ''commodity pool operator'' with respect to the Fund under Rule 4.5 promulgated by the Commodity Futures Trading Commission (''CFTC''), as such rule may be amended from time to time, and described certain related tests.

5735(b)(1)(D),[24] (E)[25] and (F)[26] (collectively, the ''Derivatives GLS''). The Adviser believes that expanding the listed derivatives in which the Fund may invest and permitting it to invest in OTC derivatives will help the Fund more effectively target, manage and mitigate risk.[27] For example, while the Fund could currently mitigate and limit exposure to the U.S. Treasury curve through investing in permitted derivatives, it could not utilize derivatives to target, manage and mitigate various other risks. The Exchange does not believe that the proposed changes to the Derivatives Provision should raise concerns since expanding the Fund's ability to utilize derivatives is expected to enhance the Fund's ability to target, manage and mitigate risk and would be consistent with the parameters of the Derivatives GLS. Further, as stated in the Prior Notice, the Fund's investments in derivative instruments would be consistent with the Fund's investment objectives and the 1940 Act and would not be used to seek to achieve a multiple or inverse multiple of an index.

Availability of Information

On each business day, before commencement of trading of Shares in the Regular Market Session on the Exchange, the Fund would continue to disclose on its website the Disclosed Portfolio (as defined in Nasdaq Rule 5735(c)(2)) held by the Fund that will form the basis for the Fund's calculation of net asset value (''NAV'') at the end of the business day in compliance with Nasdaq Rule 5735(c)(2). The Fund's disclosure of derivative positions in the Disclosed Portfolio would continue to include information that market participants can use to value these positions intraday.

Intraday executable price information for the Short-Term/Cash Investments, Non-Mortgage Government Entity Securities, ABS, other fixed income securities, exchange-traded equity securities, and exchange-traded and OTC derivatives held by the Fund would be available from major broker-dealer firms and/or major market data vendors. Additionally, the Trade Reporting and Compliance Engine (''TRACE'') of the Financial Industry Regulatory Authority (''FINRA'') would continue to be a source of price information for the Mortgage-Related Investments held by the Fund. For exchange-traded assets, including listed derivatives, intraday price information would continue to be available directly from the applicable listing venues. Intraday price information for the fixed income securities held by the Fund would also continue to be generally available through subscription services which can be accessed by Authorized Participants (as defined in the Prior Notice) and other investors. Registered open-end management investment companies (other than ETFs) would continue to be generally priced once each business day and such prices would continue to be available through the applicable fund's website or major market data vendors.

Surveillance

The Exchange represents that trading in the Shares would be subject to the existing trading surveillances, administered by both Nasdaq and also FINRA, on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[28] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, or the Exchange, or both, would communicate as needed, and may obtain trading information, regarding trading in the Shares and the exchange-listed instruments held by the Fund with other markets and other entities that are members of ISG.[29] The Exchange may also obtain information regarding trading in the Shares and the exchange-listed instruments held by the Fund from markets and other entities with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, would be able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

[24] Under Nasdaq Rule 5735(b)(1)(D), a portfolio may hold listed derivatives, including futures, options and swaps on commodities, currencies and financial instruments (*e.g.,* stocks, fixed income, interest rates, and volatility) or a basket or index of any of the foregoing. There shall be no limitation to the percentage of the portfolio invested in such holdings, subject to the following requirements: (i) In the aggregate, at least 90% of the weight of such holdings invested in futures, exchange-traded options, and listed swaps shall, on both an initial and continuing basis, consist of futures, options, and swaps for which the Exchange may obtain information via the Intermarket Surveillance Group (''ISG''), from other members or affiliates of ISG, or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement. (For purposes of calculating this limitation (referred to herein as the ''90% Requirement''), a portfolio's investment in listed derivatives will be calculated as the aggregate gross notional value of the listed derivatives.); and (ii) the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the portfolio (including gross notional exposures). In light of the 90% Requirement, the provision set forth in footnote 17 of the Prior Notice and repeated under the heading ''Surveillance'' in the Prior Notice (requiring that at least 90% of the Fund's net assets that are invested in exchange-traded equity securities and exchange-traded derivatives (in the aggregate) will be invested in investments that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange) would be deleted. The Exchange notes that the only exchange-traded equity securities in which the Fund is permitted to invest are ETFs that are listed and traded in the U.S. on registered exchanges. *See* footnote 21 of the Prior Notice and accompanying text.

[25] Nasdaq Rule 5735(b)(1)(E) provides that a portfolio may hold OTC derivatives, including forwards, options, and swaps on commodities, currencies and financial instruments (*e.g.,* stocks, fixed income, interest rates, and volatility) or a basket or index of any of the foregoing; however, on both an initial and continuing basis, no more than 20% of the assets in the portfolio may be invested in OTC derivatives. For purposes of calculating this limitation, a portfolio's investment in OTC derivatives will be calculated as the aggregate gross notional value of the OTC derivatives.

[26] Nasdaq Rule 5735(b)(1)(F) provides that to the extent that listed or OTC derivatives are used to gain exposure to individual equities and/or fixed income securities, or to indexes of equities and/or indexes of fixed income securities, the aggregate gross notional value of such exposure shall meet the criteria set forth in Nasdaq Rules 5735(b)(1)(A) and 5735(b)(1)(B), respectively.

[27] The Prior Notice indicated that the Fund's use of derivative transactions may allow it to obtain net long or short exposures to selected interest rates or durations, and that derivatives may also be used to hedge risks associated with the Fund's other portfolio investments. For the avoidance of doubt, the Fund's use of derivatives is not limited to the foregoing purposes. In this regard, among other things, the Fund may use listed and OTC derivatives to gain exposure to individual equities and/or fixed income securities, or to indexes of equities and/or indexes of fixed income securities in accordance with Nasdaq Rule 5735(b)(1)(F).

[28] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[29] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

Continued Listing Representations

All statements and representations made in this filing regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, (c) dissemination and availability of the reference asset or intraday indicative values, or (d) the applicability of Exchange listing rules shall constitute continued listing requirements for listing the Shares on the Exchange. In addition, the issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series.

The Adviser represents that there would be no change to the Fund's investment objectives. Except as provided herein, all representations made in the Prior Notice regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, (c) dissemination and availability of the reference asset or intraday indicative values, or (d) the applicability of Exchange listing rules (collectively, ''Prior Notice Continued Listing Representations'') would remain unchanged. Except for the Fixed Income GLS, the Fund and the Shares would comply with the requirements applicable to Managed Fund Shares under Nasdaq Rule 5735.[30]

2. Statutory Basis

Nasdaq believes that the proposal is consistent with Section 6(b) of the Act in general and Section 6(b)(5) of the Act, in particular, 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, and to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The purpose of the proposed rule change is to modify certain provisions included in the Prior Notice pertaining to (1) the Investment Requirement, Short-Term/Cash Investments and Non-Mortgage Government Entity Securities; (2) the Fund's ability to invest in securitized products; and (3) the Fund's ability to invest in derivative instruments. Except as provided herein, the Prior Notice Continued Listing Representations would remain unchanged. Except for the Fixed Income GLS, the Fund and the Shares would comply with the requirements applicable to Managed Fund Shares under Nasdaq Rule 5735.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares would continue to be listed and traded on the Exchange pursuant to Nasdaq Rule 5735. The Exchange represents that trading in the Shares would continue to be subject to the existing trading surveillances, administered by both Nasdaq and also FINRA, on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. FINRA, on behalf of the Exchange, or the Exchange, or both, would communicate as needed, and may obtain trading information, regarding trading in the Shares and the exchange-listed instruments held by the Fund with other markets and other entities that are members of ISG. The Exchange may also obtain information regarding trading in the Shares and the exchange-listed instruments held by the Fund from markets and other entities with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, would be able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Adviser represents that the primary purpose of the proposed changes is to provide it with greater flexibility in meeting the Fund's investment objectives by modifying certain provisions in the Prior Notice.

With respect to the proposed changes relating to the Investment Requirement, the Short-Term/Cash Provision and Non-Mortgage Government Entity Securities, the Exchange does not believe that such changes raise concerns. Rather, the Exchange believes that the proposed changes, by expanding the Fund's ability to invest in Short-Term/Cash Investments and Non-Mortgage Government Entity Securities (and therefore, its ability to invest more conservatively), would enhance the Fund's overall credit and liquidity profile, permit it to be more defensive in nature in times of heightened market volatility, and facilitate its ability to manage its intended low duration mandate. In this regard, the Exchange notes that Short-Term/Cash Investments are generally short-term, liquid and of high credit quality,[31] and that Non-Mortgage Government Entity Securities are generally liquid and of high credit quality,[32] making them less susceptible than other asset classes both to price manipulation and volatility.

With respect to the proposed changes to permit the Fund to invest up to 5% of its net assets in ABS, the Exchange does not believe that such changes raise concerns given that they would not increase the percentage of the Fund's net assets restricted by the 20% Non-Government Limit. Rather, a small portion of the Fund's assets could be allocated to ABS in order to give the Fund more diversified exposure to the securitized product marketplace, thereby potentially mitigating risk and permitting the Fund to benefit from relative value opportunities within the securitized product marketplace. Further, taking into account the proposed changes, the 20% Non-Government Limit would be consistent with the fixed income generic listing provisions of Nasdaq Rule 5735(b)(1)(B)(v), as recently modified.[33]

With respect to the proposed changes relating to the Derivatives Provision, the Exchange does not believe that such changes raise concerns since expanding the Fund's ability to utilize derivatives is expected to enhance the Fund's ability to target, manage and mitigate risk and would be consistent with the parameters of the Derivatives GLS. Further, as stated in the Prior Notice, the Fund's investments in derivative instruments would be consistent with the Fund's investment objectives and the 1940 Act and would not be used to seek to achieve a multiple or inverse multiple of an index.

Based on the foregoing, the Exchange does not believe that the proposed changes would adversely affect investors or Exchange trading.

In addition, a large amount of information would continue to be publicly available regarding the Fund

[30] Although the Fund may not comply with the fixed income generic listing provisions of Nasdaq Rule 5735(b)(1)(B)(i)–(iv), it will comply with the fixed income generic listing provisions of Nasdaq Rule 5735(b)(1)(B)(v).

[31] As stated above, the Current Short-Term Debt Securities are securities from issuers having a long-term debt rating of at least A by S&P Ratings, Moody's or Fitch and having a maturity of one year or less. The other Short-Term/Cash Investments would consist of money market funds, cash, and, to the extent not previously referenced in this footnote, Generic Cash Equivalents. *See also* footnote 18, *supra.*

[32] *See supra* footnote 19.

[33] *See supra* footnote 22.

and the Shares, thereby promoting market transparency. For example, the Intraday Indicative Value (as defined in Nasdaq Rule 5735(c)(3)), available on the Nasdaq Information LLC proprietary index data service, would continue to be widely disseminated and broadly displayed at least every 15 seconds during the Regular Market Session. On each business day, before commencement of trading in Shares in the Regular Market Session on the Exchange, the Fund would continue to disclose on its website the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Intraday executable price information for the Short-Term/Cash Investments, Non-Mortgage Government Entity Securities, ABS, other fixed income securities, exchange-traded equity securities, and exchange-traded and OTC derivatives held by the Fund would be available from major broker-dealer firms and/or major market data vendors. Additionally, FINRA's TRACE would continue to be a source of price information for the Mortgage-Related Investments held by the Fund. For exchange-traded assets, including listed derivatives, intraday price information would continue to be available directly from the applicable listing venues. Intraday price information for fixed income securities held by the Fund would also continue to be generally available through subscription services which can be accessed by Authorized Participants and other investors. Registered open-end management investment companies (other than ETFs) would continue to be generally priced once each business day and such prices would continue to be available through the applicable fund's website or major market data vendors.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that the additional flexibility to be afforded to the Adviser under the proposed rule change is intended to enhance its ability to meet the Fund's investment objectives, to the benefit of investors. In addition, consistent with the Prior Notice, NAV per Share would continue to be calculated daily, and NAV and the Disclosed Portfolio would continue to be made available to all market participants at the same time. Further, investors would continue to have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

For the above reasons, Nasdaq believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change would provide the Adviser with additional flexibility, thereby helping the Fund to achieve its investment objectives. As such, it is expected that the Fund may become a more attractive investment product in the marketplace and, therefore, that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

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 [34] and subparagraph (f)(6) of Rule 19b–4 thereunder.[35]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2019–079 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–2019–079. 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–2019–079 and should be submitted on or before October 28, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Jill M. Peterson,

Assistant Secretary.

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[34] 15 U.S.C. 78s(b)(3)(A)(iii).

[35] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[36] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87183; File No. SR–CBOE–2019–065]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Move the Rules in Chapter XVIII, Which Governs Exchange Arbitrations, of the Currently Effective Rulebook to Proposed Chapter 14 of the Shell Structure for the Exchange's Rulebook

October 1, 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 September 25, 2019, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, and II, below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the 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 Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to move the Rules in Chapter XVIII, which governs Exchange arbitrations, of the currently effective Rulebook (''current Rulebook'') to proposed Chapter 14 of the shell structure for the Exchange's Rulebook that will become effective upon the migration of the Exchange's trading platform to the same system used by the Cboe Affiliated Exchanges (as defined below) (''shell Rulebook''). The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In 2016, the Exchange's parent company, Cboe Global Markets, Inc. (formerly named CBOE Holdings, Inc.) (''Cboe Global''), which is also the parent company of Cboe C2 Exchange, Inc. (''C2''), acquired Cboe EDGA Exchange, Inc. (''EDGA''), Cboe EDGX Exchange, Inc. (''EDGX'' or ''EDGX Options''), Cboe BZX Exchange, Inc. (''BZX'' or ''BZX Options''), and Cboe BYX Exchange, Inc. (''BYX'' and, together with Cboe Options, C2, EDGX, 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 trading platform to the same system used by the Cboe Affiliated Exchanges, which the Exchange expects to complete on October 7, 2019. In connection with this technology migration, the Exchange has a shell Rulebook that resides alongside its current Rulebook, which shell Rulebook will contain the Rules that will be in place upon completion of the Cboe Options technology migration.

The Exchange proposes to relocate current Chapter XVIII which governs arbitrations, to proposed Chapter 14 in the shell Rulebook. The Exchange notes that in addition to relocating the arbitration rules to proposed shell Chapter 14, the proposed rule change deletes the rules from the current Rulebook. The proposed rule change relocates the rules as follows:

Shell rule	Current rule
Chapter 14. Arbitration	Chapter XVIII. Arbitration
14.1 Matters Subject to Arbitration	18.1 Matters Subject to Arbitration.
14.2 FINRA Jurisdiction over Arbitrations Against TPHs	18.1A FINRA Jurisdiction over Arbitrations Against TPHs.
14.3 Procedures in TPH Controversies	18.2 Procedures in TPH Controversies.
14.4 Arbitration	18.3 Arbitration.
14.5 Class Action Claims	18.3A Class Action Claims.
14.6 Simplified Arbitration	18.4 Simplified Arbitration.
14.7 Waiver of Hearing	18.5 Waiver of Hearing.
14.8 Time Limitation upon Submission	18.6 Time Limitation upon Submission.
14.9 Dismissal or Termination of Proceedings	18.7 Dismissal or Termination of Proceedings.
14.10 Settlements	18.8 Settlements.
14.11 Tolling of Time Limitation(s) for the Institution of Legal Proceedings and Extension of Time Limitation(s) for Submission to Arbitration.	18.9 Tolling of Time Limitation(s) for the Institution of Legal Proceedings and Extension of Time Limitation(s) for Submission to Arbitration.
14.12 Designation of Number of Arbitrators	18.10 Designation of Number of Arbitrators.
14.13 Notice of Selection of Arbitrators	18.11 Notice of Selection of Arbitrators.
14.14 Challenges	18.12 Challenges.
14.15 Disclosures Required of Arbitrators	18.13 Disclosures Required of Arbitrators.
14.16 Disqualification or Other Disability of Arbitrators	18.14 Disqualification or Other Disability of Arbitrators.
14.17 Initiation of Proceedings	18.15 Initiation of Proceedings.
14.18 Designation of Time and Place of Hearings	18.16 Designation of Time and Place of Hearings.

[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).

Shell rule	Current rule
Chapter 14. Arbitration	Chapter XVIII. Arbitration
14.19 Representation by Counsel	18.17 Representation by Counsel.
14.20 Attendance at Hearings	18.18 Attendance at Hearings.
14.21 Failure to Appear	18.19 Failure to Appear.
14.22 Adjournments	18.20 Adjournments.
14.23 Acknowledgement of Pleadings	18.21 Acknowledgement of Pleadings.
14.24 General Provisions Governing Pre-Hearing Proceeding	18.22 General Provisions Governing Pre-Hearing Proceeding.
14.25 Evidence	18.24 Evidence.
14.26 Interpretation of Code and Enforcement of Arbitrator Rulings	18.25 Interpretation of Code and Enforcement of Arbitrator Rulings.
14.27 Determinations of Arbitrators	18.26 Determinations of Arbitrators.
14.28 Record of Proceedings	18.27 Record of Proceedings.
14.29 Oaths of the Arbitrators and Witnesses	18.28 Oaths of the Arbitrators and Witnesses.
14.30 Amendments	18.29 Amendments.
14.31 Reopening of Hearings	18.30 Reopening of Hearings.
14.32 Awards	18.31 Awards.
14.33 Miscellaneous	18.32 Miscellaneous.
14.34 Schedule of Fees	18.33 Schedule of Fees.
14.35 Requirements when Using Pre-Dispute Arbitration Agreements with Customers.	18.35 Requirements when Using Pre-Dispute Arbitration Agreements with Customers.
14.36 Failure to Honor Award	18.37 Failure to Honor Award.

The proposed changes are of a non-substantive nature and will not amend the relocated rules other than to update their numbers, conform paragraph structure and number/lettering format to that of the shell Rulebook, and make cross-reference changes to shell rules.

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.[5] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] 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)[7] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As stated, the proposed rule change makes no substantive changes to the rules. The proposed rule change is merely intended to relocate the Exchange's rules to the shell Rulebook and update their numbers, paragraph structure, including number and lettering format, and cross-references to conform to the shell Rulebook as a whole in anticipation of the technology migration on October 7, 2019. As such, the proposed rule change is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by improving the way the Exchange's Rulebook is organized, making it easier to read, and, particularly, helping market participants better understand the rules of the Exchange, which will also result in less burdensome and more efficient regulatory compliance.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended as a competitive change, but rather, seeks to make non-substantive rule changes in relocating the rules and updating cross-references to shell rules in anticipation of the October 7, 2019 technology migration. The Exchange also does not believe that the proposed rule change will impose any undue burden on competition because the relocated rule text is exactly the same as the Exchange's current rules, all of which have all been previously filed with the Commission.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b-4(f)(6) thereunder.[9]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[10] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[11] 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

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *Id.*

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 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. Because this proposal does not make any substantive changes to the rules but only moves them into the shell Rulebook, the Commission designates a shorter time under Rule 19b–4(f)(6)(iii) by waiving the five business prefiling period for this proposal.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

the Commission to waive the 30-day operative delay. The Exchange believes that waiver of the operative delay is appropriate because, as the Exchange discussed above, its proposal does not make any substantive changes to the Exchange Rules, but merely relocates arbitration rules to the shell Rulebook that the Exchange wishes to maintain post migration. Accordingly, its proposal is designed to preserve its arbitration rules after October 7, 2019. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal does not raise any new or novel issues and does not make any substantive changes to the rules. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.[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 necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2019–065 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–2019–065.* 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–2019–065* and should be submitted on or before October 28, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–21734 Filed 10–4–19; 8:45 am]

BILLING CODE 8011–01–P

[12] 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).

[13] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16135 and #16136; Mississippi Disaster Number MS–00110]

Presidential Declaration of a Major Disaster for the State of Mississippi

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Mississippi (FEMA–4429–DR), dated 09/20/2019.

Incident: Severe Storms, Straight-line Winds, Tornadoes, and Flooding.

Incident Period: 02/22/2019 through 03/29/2019.

DATES: Issued on 09/20/2019.

Physical Loan Application Deadline Date: 11/19/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 06/22/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 09/20/2019, applications for disaster loans may be filed at the address listed above or other locally announced locations. The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Clay, Humphreys, Issaquena, Lowndes, Monroe, Sharkey, Warren, Yazoo.

Contiguous Counties (Economic Injury Loans Only):

Mississippi: Attala, Chickasaw, Claiborne, Hinds, Holmes, Itawamba, Lee, Leflore, Madison, Noxubee, Oktibbeha, Sunflower, Washington, Webster.

Alabama: Lamar, Marion, Pickens.

Arkansas: Chicot.

Louisiana: East Carroll, Madison, Tensas.

The interest rates are:

For Physical Damage:	
Homeowners with Credit Available Elsewhere	4.125
Homeowners without Credit Available Elsewhere	2.063
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	2.750
Non-Profit Organizations without Credit Available Elsewhere	2.750
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 16135B and for economic injury is 161360.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2019–21777 Filed 10–4–19; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16143 and #16144; ALASKA Disaster Number AK–00043]

Administrative Declaration of a Disaster for the State of Alaska

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Alaska, dated 10/01/2019.

Incident: McKinley Wildland Fire.

Incident Period: 08/17/2019 through 08/26/2019.

DATES: Issued on 10/01/2019.

*Physical Loan Application Deadline Date:*12/02/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 07/01/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations. The following areas have been determined to be adversely affected by the disaster:

Primary Area: Matanuska-Susitna Borough

Contiguous Areas:

Alaska: Chugach REAA, Copper River REAA, Delta/Greely REAA, Denali Borough, Iditarod Area REAA, Kenai Peninsula Borough, Municipality of Anchorage.

The Interest Rates are:	
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.500
Homeowners without Credit Available Elsewhere	1.750
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	2.750
Non-Profit Organizations without Credit Available Elsewhere	2.750
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 16143 5 and for economic injury is 16144 0.

The State which received an EIDL Declaration # is Alaska.

(Catalog of Federal Domestic Assistance Number 59008)

Christopher Pilkerton,

Acting Administrator.

[FR Doc. 2019–21778 Filed 10–4–19; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16139 and #16140; SOUTH DAKOTA Disaster Number SD–00095]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of South Dakota

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of South Dakota (FEMA–4463–DR), dated 09/23/2019.

Incident: Severe Storms and Flooding.

Incident Period: 05/26/2019 through 06/07/2019.

DATES: Issued on 09/23/2019.

Physical Loan Application Deadline Date: 11/22/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 06/23/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 09/23/2019, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Areas: Aurora, Bennett, Brule, Butte, Campbell, Custer, Deuel, Fall River, Gregory, Haakon, Hamlin, Hanson, Jackson, Jones, Lyman, Meade, Mellette, Pennington, Sanborn, Todd, Tripp, Turner, Union, Walworth, and Ziebach Counties and the Cheyenne River Sioux Reservation and the Rosebud Reservation.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere	2.750
Non-Profit Organizations without Credit Available Elsewhere	2.750
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 161396 and for economic injury is 161400.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2019–21776 Filed 10–4–19; 8:45 am]

BILLING CODE 8026–03–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2019–0042]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to

minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA), Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2019–0042].

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than December 6, 2019. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Missing and Discrepant Wage Reports Letter and Questionnaire—26 CFR 31.6051–2—0960–0432. Each year employers report the wage amounts they paid their employees to the Internal Revenue Service (IRS) for tax purposes, and separately to SSA for retirement and disability coverage purposes. Employers should report the same figures to SSA and the IRS; however, each year some of the employer wage reports SSA receives show wage amounts lower than those employers report to the IRS. SSA uses Forms SSA–L93–SM, SSA–L94–SM, SSA–95–SM, and SSA–97–SM to ensure employees receive full credit for their wages. Respondents are employers who reported lower wage amounts to SSA than they reported to the IRS.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars)*	Total annual opportunity cost (dollars) **
SSA–95–SM and SSA–97–SM (and accompanying cover letters SSA–L93, L94)	360,000	1	30	180,000	* $22.50	** $4,050,000

* We based this figure on average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data.

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

2. Request for Proof(s) from Custodian of Records—20 CFR 404.703, 404.704, 404.720, 404.721, 404.723, 404.725, & 404.728—0960–0766. SSA sends Form SSA–L707, Request for Proof(s) from Custodian of Records, to records custodians on behalf of individuals who need help obtaining evidence of death, marriage, or divorce in connection with claims for benefits. SSA uses the information from the SSA–L707 to determine eligibility for benefits. The respondents are records custodians including statistics and religious entities, coroners, funeral directors, attending physicians, and State agencies.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
State or Local Government	94	1	10	16	* $18.00	** $288.00
Private Sector	24	1	10	4	* 37.60	** 150.00
Totals	118			20		** 438.00

* We based this figure on average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data.

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

II. SSA submitted the information collection below to OMB for clearance. Your comments regarding this information collection would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than November 6, 2019. Individuals can obtain copies of the OMB clearance package by writing to *OR.Reports.Clearance@ssa.gov.*

Work Incentives Planning and Assistance Program—0960–0629. As part of SSA's strategy to assist Social Security Disability Insurance (SSDI) beneficiaries and Supplemental Security Income (SSI) recipients who wish to return to work and achieve self-sufficiency, SSA established the Work Incentives Planning and Assistance (WIPA) program. This community based, work incentive, planning and assistance project collects identifying claimant information via project sites and community work incentives coordinators (CWIC). SSA uses this information to ensure proper management of the project, with particular emphasis on administration, budgeting, and training. In addition, project sites and CWIC's collect data from SSDI beneficiaries and SSI recipients on background employment, training, benefits, and work incentives. SSA is interested in identifying SSDI beneficiary and SSI recipient outcomes under the WIPA program, to determine

the extent to which beneficiaries with disabilities and SSI recipients achieve their employment, financial, and healthcare goals. SSA will also use the data in its analysis and future planning for SSDI and SSI programs. Respondents are SSDI beneficiaries, SSI recipients, community project sites, and employment advisors.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
Small Site (Under 150 beneficiaries served) (SSA–4565; SSA–4566; SSA–4567)	4,800	1	20	1,600	* $20.65	** $33,040
Medium Site (150–599 beneficiaries served) (SSA–4565; SSA–4566; SSA–4567)	7,500	1	20	2,500	20.65	** 51,625
Large Site (600 or more beneficiaries served) (SSA–4565; SSA–4566; SSA–4567)	17,700	1	20	5,900	* 20.65	** 121,835
Total Sites	30,000			10,000		** 206,500
SSDI & SSI Beneficiaries	30,000	1	25	12,500	* 10.22	** 127,750
Help Line	30,000	1	5	2,500	* 10.22	** 25,550
Totals	90,000			25,000		** 359,800

* We based this figure on average DI payments, as reported in SSA's disability insurance payment data.

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

Dated: October 2, 2019.

Naomi Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2019–21767 Filed 10–4–19; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 10918]

Notification of the Thirteenth CAFTA–DR Environmental Affairs Council Meeting

AGENCY: Department of State

ACTION: Notice of the thirteenth CAFTA–DR Environmental Affairs Council meeting and request for comments.

SUMMARY: The Department of State and the Office of the United States Trade Representative are providing notice that the parties to the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA–DR) intend to hold the thirteenth meeting of the Environmental Affairs Council (the Council) established under Chapter 17 (Environment) of that agreement in Miami, Florida, United States on November 13 and 14, 2019.

DATES: The public session of the Council will be held on November 14, 2019, from 10:00 a.m. to 1:00 p.m. Please contact Sarah Flores and Katy Sater for the location of this meeting. We request comments and suggestions in writing no later than October 18, 2019.

ADDRESSES: Written comments or suggestions should be submitted to both: (1) Sarah Flores, U.S. Department of State, Bureau of Oceans and International Environmental and Scientific Affairs, Office of Environmental Quality and Transboundary Issues by email to *FloresSC@state.gov* with the subject line ''CAFTA–DR EAC Meeting''; and

(2) Katy Sater, Director for Environment and Natural Resources, Office of the United States Trade Representative by email to *mary.c.sater@ustr.eop.gov* with the subject line ''CAFTA–DR EAC Meeting''.

If you have access to the internet you can view and comment on this notice by going to: *http://www.regulations.gov/#!home* and searching for docket number DOS- DOS–2019–0032.

FOR FURTHER INFORMATION CONTACT: Sarah Flores, (202) 647–0156, or Katy Sater, (202) 395–9522

SUPPLEMENTARY INFORMATION: On November 13, the Council will meet in a closed government-to-government session to (1) review implementation of the environment chapter and discuss how parties are meeting their environment chapter obligations; (2) highlight environmental enforcement and achievements in the past year and share related lessons learned and best practices; (3) review ongoing work under the environmental cooperation program; and (4) receive a report from the CAFTA–DR Secretariat for Environmental Matters on the status of the public submissions process.

On November 14, the Council invites all interested persons to attend a public session on Chapter 17 implementation, beginning at 10:00 a.m. in Miami, Florida. At the session, the Council will welcome questions, input, and information about challenges and achievements in implementation of the Chapter obligations and the related Environmental Cooperation Agreement (ECA). If you would like to attend the public session, please notify Sarah Flores and Katy Sater at the email addresses listed under the heading **ADDRESSES**. Please include your full name and identify any organization or group you represent.

The Department of State and Office of the United States Trade Representative also invite written comments or suggestions regarding topics to be discussed at the Council meeting to be submitted no later than October 18, 2019. When preparing comments, we encourage submitters to refer to Chapter 17 (Environment) of the CAFTA–DR and the CAFTA–DR Environmental Cooperation Agreement *(documents available at http://www.state.gov/e/oes/eqt/trade/caftadr/index.htm* and *https://ustr.gov/issue-areas/environment/bilateral-and-regional-trade-agreements*). Instructions on how to submit comments are under the heading **ADDRESSES**.

Article 17.5 of the CAFTA–DR establishes an Environmental Affairs

Council (the Council) and provides that, unless the CAFTA–DR parties otherwise agree, the Council will meet annually to oversee the implementation of, and review progress under, Chapter 17, and to consider the status of cooperation activities developed under the ECA. Article 17.5 further requires that, unless the parties otherwise agree, each meeting of the Council include a session in which members of the Council have an opportunity to meet with the public to discuss matters relating to the implementation of Chapter 17.

In preparing comments, we encourage submitters to refer to:

- Chapter 17 of the CAFTA–DR and
- The ECA

These documents are available at: *http://www.state.gov/e/oes/eqt/trade/caftadr/index.htm* and *https://ustr.gov/issue-areas/environment/bilateral-and-regional-trade-agreements.* Visit the State website at *http://www.state.gov* and the USTR website at *www.ustr.gov* for more information.

Robert D. Wing,

Acting Director, Office of Environmental Quality and Transboundary Issues, Department of State.

[FR Doc. 2019–21836 Filed 10–4–19; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice: 10919]

Notice of Determinations: Culturally Significant Objects Imported for Exhibition—Determinations: ''Where the Truth Lies: The Art of Qiu Ying'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Where the Truth Lies: The Art of Qiu Ying,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Los Angeles County Museum of Art, Los Angeles, California, from on or about February 9, 2020, until on or about May 17, 2020, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Matthew R. Lussenhop,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2019–21805 Filed 10–4–19; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Disposal of Aeronautical Property at Coastal Carolina Regional Airport, New Bern, North Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration is requesting public comment on a request by Coastal Carolina Regional Airport, to release of land (7.071 acres) from federal obligations.

DATES: Comments must be received on or before November 6, 2019.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address:

Memphis Airports District Office, Attn: Phillip J. Braden, Manager, 2600 Thousand Oaks Boulevard, Suite 2250, Memphis, TN 38118.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Andrew Shorter, Airport Director, Coastal Carolina Regional Airport at the following address: 200 Terminal Drive, New Bern, NC 28562.

FOR FURTHER INFORMATION CONTACT: Phillip J. Braden, Manager, Federal Aviation Administration, Memphis Airports District Office, 2600, Thousand Oaks Boulevard, Suite 2250, Memphis, TN 38118–2482; telephone: (901) 322–8181. The application may be reviewed in person at this same location, by appointment.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the request to release property for disposal at Coastal Carolina Regional Airport, 200 Terminal Dr, New Bern, NC 28562, under the provisions of 49 U.S.C. 47107(h)(2). The FAA determined that the request to release property at Coastal Carolina Regional Airport (EWN) submitted by the Sponsor meets the procedural requirements of the Federal Aviation Administration and the release of these properties does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this notice.

The request consists of the following: The Coastal Carolina Regional Airport and North Carolina Department of Transportation are proposing the release of airport property totaling 7.071 acres. The land requested for release is the right of way of Terminal Drive and Airline Drive, two access roads link the airport to Williams Road and Airport Road. Terminal Drive provides the only route to access the commercial terminal at Coastal Carolina Regional Airport. It is a circular/loop road that currently operates in a one-way, counter clockwise direction. It is anticipated that the upcoming Highway 70 improvement project will significantly increase ''cut-through'' traffic on Terminal Drive. For safety and efficiency reasons, it is critical to alter the traffic flow, allowing this non-airport traffic to proceed without having to pass directly through the airport. Therefore, the North Carolina Department of Transportation (NCDOT) has designed a traffic circle that will allow the eastern portion of Terminal Drive to be converted to a two-way thoroughfare. This request will release this property from federal obligations. This action is taken under the provisions of 49 U.S.C. 47107(h)(2).

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Coastal Carolina Regional Airport.

Issued in Memphis, Tennessee on September 25, 2019.

Phillip J. Braden,

Manager, Memphis Airports District Office, Southern Region.

[FR Doc. 2019–21857 Filed 10–4–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment To Change Land Use From Aeronautical to Non Aeronautical for 25.88 Acres at Barnstable Municipal Airport, Hyannis, MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comments.

SUMMARY: Notice is being given that the FAA is considering a request from the Town of Barnstable, MA to change the land use from Aeronautical to Non Aeronautical for 25.88 Acres at Barnstable Municipal Airport. The land use change will allow the redevelopment of a retail center on land that is not needed for aviation purposes. The revenue generated by the lease of airport land for the retail center will be placed into the airport's operation and maintenance fund.

DATES: Comments must be received on or before November 6, 2019.

ADDRESSES: You may send comments using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov,* and follow the instructions on providing comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W 12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Interested persons may inspect the request and supporting documents by contacting the FAA at the address listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Mr. Jorge E. Panteli, Compliance and Land Use Specialist, Federal Aviation Administration New England Region Airports Division, 1200 District Avenue, Burlington, Massachusetts, 01803. Telephone: 781–238–7618.

Issued in Burlington, Massachusetts on September 24, 2019.

Gail B. Lattrell,

Director, ANE–600.

[FR Doc. 2019–21855 Filed 10–4–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment To Change the Land Use From Aeronautical to Non Aeronautical for 28.46 Acres at Waterville LaFleur Airport, Waterville, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comments.

SUMMARY: Notice is being given that the FAA is considering a request from the City of Waterville, ME to change the land use from Aeronautical to Non Aeronautical for 28.46 acres. The land use change will allow the development of a solar farm on land that is not needed for aeronautical purposes. The revenue generated by the lease of airport land for the solar farm will be placed into the airport's operation and maintenance fund.

DATES: Comments must be received on or before November 6, 2019.

ADDRESSES: You may send comments using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov,* and follow the instructions on providing comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W 12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Interested persons may inspect the request and supporting documents by contacting the FAA at the address listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Mr. Jorge E. Panteli, Compliance and Land Use Specialist, Federal Aviation Administration New England Region Airports Division, 1200 District Avenue, Burlington, Massachusetts, 01803. Telephone: 781–238–7618.

Issued in Burlington, Massachusetts on September 27, 2019.

Gail B. Lattrell,

Director, ANE–600.

[FR Doc. 2019–21854 Filed 10–4–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the San Marcos Regional Airport, San Marcos, Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at the San Marcos Regional Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before November 6, 2019.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Mr. Ben Guttery, Manager, Federal Aviation Administration, Southwest Region, Airports Division, Texas Airports District Office, ASW–650, 10101 Hillwood Parkway, Fort Worth, Texas 76177.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Steve Parker, Assistant City Manager, at the following address: 630 E. Hopkins, San Marcos, Texas 78666.

FOR FURTHER INFORMATION CONTACT: Mr. Todd Hebert, Program Manager, Federal Aviation Administration, Texas Airports District Office, ASW–650, 10101 Hillwood Parkway, Fort Worth, TX 76177, Telephone: (817) 222–5614, email: *todd.hebert@faa.gov.*

The request to release property may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the San Marcos Regional Airport under the provisions of the AIR 21.

The following is a brief overview of the request:

City of San Marcos requests the release of 19.16 acres of non-aeronautical airport property. The property is located on the west side of the airport, along the future development of FM 110. The property to be released will used as roadway ROW for the construction of FM 110. FM 110 will provide improved access to the airport from IH 35 and will include a new entrance to the airport. The value of the improvements will offset the appraised value of the land. Any person

may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents relevant to the application in person at the San Marcos Regional Airport, telephone number (512) 216–6042.

Issued in Fort Worth, Texas on September 13, 2019.

Ignacio Flores,

Director, Airports Division.

[FR Doc. 2019–21779 Filed 10–4–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment To Swap 1.12 Acres of Airport Land and Receive 14.55 Acres of Land From CTDOT for Airport Use at Bradley International Airport, Windsor Lock, CT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comments.

SUMMARY: Notice is being given that the FAA is considering a request from the Connecticut Airport Authority (CAA) to swap 1.12 acres of airport land, which is part of the entrance road to the airport, and receive 14.55 acres of land from CTDOT. This project will realign the entrance roadway to allow CAA to move forward with the planned Ground Transportation Center. The entrance roadway will be owned and operated by the CTDOT.

DATES: Comments must be received on or before November 6, 2019.

ADDRESSES: You may send comments using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov,* and follow the instructions on providing comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W 12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Interested persons may inspect the request and supporting documents by contacting the FAA at the address listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Mr. Jorge E. Panteli, Compliance and Land Use Specialist, Federal Aviation Administration New England Region Airports Division, 1200 District Avenue, Burlington, Massachusetts 01803. Telephone: 781–238–7618.

Issued in Burlington, Massachusetts on September 27, 2019.

Gail B. Lattrell,

Director, ANE–600.

[FR Doc. 2019–21856 Filed 10–4–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. FAA–2019–61]

Petition for Exemption; Summary of Petition Received; Southern Utah University

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 October 28, 2019.

ADDRESSES: Send comments identified by docket number FAA–2019–0744 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 September 30, 2019.

Brandon Roberts,

Acting Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2019–0744.

Petitioner: Southern Utah University.

Section(s) of 14 CFR Affected: § 141.38.

Description of Relief Sought: To allow Southern Utah University (SUU) to operate SUU's aviation program under 14 CFR part 141 training at Cedar City Regional Airport (KCDC) during a construction project if performance requirements are met under current aircraft weight, temperature, and wind conditions for the time of the operation.

[FR Doc. 2019–21709 Filed 10–4–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2019–0004–N–16]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its

implementing regulations, FRA seeks approval of the Information Collection Requests (ICRs) abstracted below. Before submitting these ICRs to the Office of Management and Budget (OMB) for approval, FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Interested persons are invited to submit comments on or before December 6, 2019.

ADDRESSES: Submit written comments on the ICRs activities by mail to either: Ms. Hodan Wells, Information Collection Clearance Officer, Office of Railroad Safety, Regulatory Analysis Division, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; or Ms. Kim Toone, Information Collection Clearance Officer, Office of Information Technology, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, ''Comments on OMB Control Number 2130–XXXX,'' (the relevant OMB control number for each ICR is listed below) and should also include the title of the ICR. Alternatively, comments may be faxed to 202–493–6216 or 202–493–6497, or emailed to Ms. Wells at *hodan.wells@dot.gov,* or Ms. Toone at *kim.toone@dot.gov.* Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Ms. Hodan Wells, Information Collection Clearance Officer, Office of Railroad Safety, Regulatory Analysis Division, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: (202) 493–0440) or Ms. Kim Toone, Information Collection Clearance Officer, Office of Information Technology, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: (202) 493–6132).

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days' notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. Specifically, FRA invites interested parties to comment on the following ICRs regarding: (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways for FRA to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology. *See* 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment may reduce the administrative and paperwork burdens associated with the collection of information that Federal regulations mandate. In summary, FRA reasons that comments received will advance three objectives: (1) Reduce reporting burdens; (2) organize information collection requirements in a ''user-friendly'' format to improve the use of such information; and (3) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

The summaries below describe the ICRs that FRA will submit for OMB clearance as the PRA requires:

Title: Remotely Controlled Switch Operations.

OMB Control Number: 2130–0516.

Abstract: Sections 49 CFR 218.30 and 218.77 require remotely controlled switches be properly lined to protect workers who are vulnerable to being struck by moving cars as they inspect or service rolling equipment on track or occupy camp cars. Creating required notifications promotes safety by minimizing the mental lapses of workers who are simultaneously handling several tasks. These sections require the operator of remotely controlled switches to maintain a record of each blue signal protection request for 15 days. Operators of remotely controlled switches use the information as a record documenting blue signal protection of workers or camp cars.

This record also serves as a valuable resource for railroad supervisors and FRA and State inspectors monitoring regulatory compliance.

Type of Request: Extension with change (revised estimates) of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A.

Respondent Universe: 53 railroads.

Frequency of Submission: On occasion.

Reporting Burden:

CFR Section	Respondent universe	Total annual responses	Average time per responses (minutes)	Total annual burden hours	Total cost equivalent [1]
218.30(c)—Remotely controlled switches-notification recordkeeping requirement (Blue Signal Protection of Workers).	53 railroads	1,934,500 notifications.	45 seconds	24,181	$1,378,317
218.77(c)—Remotely controlled switches-notification recordkeeping requirement (Protection of Occupied Camp Cars).	1 railroad	150 notifications	45 seconds	2	$114
Total	53 railroads	1,934,650 responses	N/A	24,183	$1,378,431

[1] Throughout the tables in this document, the dollar equivalent cost is derived from the Surface Transportation Board's Full Year Wage A&B data series using the appropriate employee group hourly wage rate that includes 75-percent overhead charges.

Total Estimated Annual Responses: 1,934,650.

Total Estimated Annual Burden: 24,183 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $1,378,431.

Title: Bad Order, Home Shop Card, and Stenciling Reporting Mark.

OMB Control Number: 2130–0519.

Abstract: Under 49 CFR part 215, railroads are required to inspect freight cars placed in service and take remedial action when defects are identified. A railroad freight car with a part 215 defect may be moved to another location for repair only after the railroad has complied with the process under 49 CFR 215.9. Section 215.9 requires

railroads to affix a ''bad order'' tag describing each defect to each side of the freight car. It is imperative that a defective freight car be tagged ''bad order'' so it can be readily identified and moved to another location for repair purposes only, and so that the maximum speed and other restrictions necessary for safely conducting the movement are known. At the repair location, the ''bad order'' tag serves as a notification of the defective condition of the freight car. Railroads must retain each tag for 90 days to verify that proper repairs were made at the designated location. When inspecting a freight car, FRA and State inspectors review all pertinent records to determine railroads' compliance with the movement restrictions of 49 CFR 215.9.

Additionally, section 215.301 requires railroads and private car owners to stencil or otherwise display identification marks on freight cars. FRA uses the identification marks to determine the railroads affected, the number and type of cars involved, the commodities being carried, and the territorial and speed limits within which the cars will be operated. FRA reviews this information to determine if the freight car is safe to operate and if the operation qualifies for dedicated service and is excluded from the requirements of part 215. Railroads use the required information to provide identification and control so that dedicated cars remain in the prescribed service.

Type of Request: Extension with change (revised estimates) of a currently approved collection.

Affected Public: Businesses (railroads).

Form(s): N/A.

Respondent Universe: 752 railroads.

Frequency of Submission: On occasion.

Reporting Burden:

CFR Section	Respondent universe	Total annual responses	Average time per responses (minutes)	Total annual burden hours	Total cost equivalent
215.9(a)—Movement of Defective Cars for Repair—Tagging.	752 railroads	150,000 tags	5	12,500	$715,000
215.9(b)—Notifications of Removal of Defective Car Tags.	752 railroads	75,000 notifications	2	2,500	143,000
215.11(c)—Designated Inspectors—Records	752 railroads	45,000 records	1	750	42,900
215.301—Stenciling—General	752 railroads	30,000 repainted/ stenciled.	45	22,500	1,287,000
Total	752 railroads	300,000 responses	N/A	38,2500	2,187,900

Total Estimated Annual Responses: 300,000.

Total Estimated Annual Burden: 38,250 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $2,187,900.

Title: Bridge Worker Safety Rules.

OMB Control Number: 2130–0535.

Abstract: Subpart B of 49 CFR part 214 establishes minimum workplace safety standards for railroad employees as they apply to railroad bridges. Specifically, 49 CFR 214.105(c) establishes standards and practices for safety net systems. Safety nets and net installations must be drop-tested at the job site after initial installation and before being used as a fall-protection system, after major repairs, and at 6-month intervals if left at one site. If a drop-test is not feasible and is not performed, then the railroad or railroad contractor, or a designated certified person, must provide written certification the net complies with the safety standards of 49 CFR 214.105. FRA and State inspectors use the information to enforce Federal regulations. The information maintained at the job site promotes safe bridge worker practices.

Type of Request: Extension with change (revised estimates) of a currently approved collection.

Affected Public: Businesses (railroads).

Form(s): N/A.

Respondent Universe: 746 railroads.

Frequency of Submission: On occasion.

Reporting Burden:

CFR Section	Respondent universe	Total annual responses	Average time per responses (minutes)	Total annual burden hours	Total cost equivalent
214.105(c)(4)— Fall protection systems standards and practices- Safety net systems certification records.	746 railroads	3 written certification records.	5	.25 (15 minutes)	$19

Total Estimated Annual Responses: 3.

Total Estimated Annual Burden: 15 minutes.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $19.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Brett A. Jortland,

Acting Chief Counsel.

[FR Doc. 2019–21814 Filed 10–4–19; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0157]

Request for Comments on the Approval of a Previously Approved Information Collection: Voluntary Tanker Agreement

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Maritime Administration (MARAD) invites public comments on our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. This collection of information is used to gather information on tanker operators who agree to contribute, either by direct charter to the Department of Defense or to other participants tanker capacity as requested by the Maritime Administrator at such times and such amounts as determined to be necessary to meet the essential needs of DOD for the transportation of petroleum and petroleum products in bulk by sea. The Voluntary Tanker Agreement is a voluntary emergency preparedness agreement. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Comments must be submitted on or before December 6, 2019.

ADDRESSES: You may submit comments identified by Docket No. MARAD–2019–0157 through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search using the above DOT docket number and follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ram Nagendran, 202–366–8584, Office of Sealift Support, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC, 20590, Email: *ram.nagendran@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Voluntary Tanker Agreement.

OMB Control Number: 2133–0505.

Type of Request: Renewal of a previously approved information collection.

Abstract: The Voluntary Tanker Agreement is a voluntary emergency preparedness agreement in accordance with Section 708, Defense Production Act, as amended (50 U.S.C. 4558). The collection consists of a request from the Maritime Administration (MARAD) that each participant in the Voluntary Tanker Agreement submit a list of the names of ships owned, chartered or contracted for by the participant, their size, flags of registry, and other pertinent information. There is a recommended format for this information included as part of the application. The collection of information is necessary to evaluate tanker capability and make plans for use of this capability to meet national emergency requirements. This information will be used by both MARAD and Department of Defense to establish contingency plans.

Respondents: Coastwise qualified vessel owners, operators, charterers, brokers and vessel representatives.

Affected Public: Business or other for profit.

Estimated Number of Respondents: 15.

Estimated Number of Responses: 15 (1 per respondent).

Estimated Hours per Response: 1 hr.

Annual Estimated Total Annual Burden Hours: 15.

Frequency of Response: Annually.

Public Comments Invited: Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.49.)

* * * * *

Dated: October 2, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–21821 Filed 10–4–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0156]

Request for Comments on the Approval of a Previously Approved Information Collection: Requirements for Eligibility of U.S.-Flag Vessels of 100 Feet or Greater in Registered Length To Obtain a Fishery Endorsement

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Maritime Administration (MARAD) invites public comments on our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information collection is necessary for MARAD to determine that a particular vessel is owned and controlled by United States citizens and is eligible to receive a fishery endorsement to its documentation. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Comments must be submitted on or before December 6, 2019.

ADDRESSES: You may submit comments identified by Docket No. MARAD–2019–0156 through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search using the above DOT docket number and follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael C. Pucci, (202) 366–5167, Division of Maritime Programs, Maritime Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, Email: *michael.pucci@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Requirements for Eligibility of U.S.-Flag Vessels of 100 Feet or Greater in Registered Length to Obtain a Fishery Endorsement.

OMB Control Number: 2133–0530.

Type of Request: Renewal of a previously approved information collection.

Abstract: In accordance with the American Fisheries Act of 1998, owners of vessels of 100 feet or greater who wish to obtain a fishery endorsement to the vessels' documentation are required to file with the Maritime Administration (MARAD) an Affidavit of United States Citizenship. The information collected will be used by MARAD to determine that a vessel is owned and controlled by citizens of the United States in accordance with the requirements of the American Fisheries Act (AFA) of 1998 and, therefore, is eligible to be documented with a fishery endorsement to its documentation.

Respondents: Certain vessel owners, vessel operators, financial institutions, and professional trusts.

Affected Public: Vessel owners, charterers, mortgagees, mortgage trustees and managers of vessels of 100 feet or greater who seek a fishery endorsement for the vessel.

Estimated Number of Respondents: 500.

Estimated Number of Responses: 500.

Annual Estimated Total Annual Burden Hours: 2950.

Frequency of Response: Annually.

Public Comments Invited: Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.49.

* * * * *

Dated: October 2, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–21820 Filed 10–4–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0155]

Request for Comments on the Approval of a New Proposed Information Collection: Port Infrastructure Development Program

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Maritime Administration (MARAD) invites public comments on our intention to request the Office of Management and Budget (OMB) approval of a new information collection. The information to be collected are applications for grants to be used to support DOT's work with State, local, Tribal, and private partners to guide investments that stimulate economic growth, improve the condition of transportation infrastructure, and enable the efficient and safe movement of people and goods. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Comments must be submitted on or before December 6, 2019.

ADDRESSES: You may submit comments identified by Docket No. MARAD–2019–0155 through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search using the above DOT docket number and follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Robert Bouchard, 202–366–5076, Office of Infrastructure Development and Congestion Mitigation, Maritime Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, Email: *Robert.bouchard@dot.gov.* Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title: Port Infrastructure Development Program.

OMB Control Number: 2133–NEW.

Type of Request: New information collection.

Abstract: On February 15, 2019, the President signed the Consolidated Appropriations Act, 2019 (FY 2019 Appropriations Act), which appropriated $292,730,000 to be awarded by the U.S. Department of Transportation (Department) for the Port Infrastructure Development Program (Program). This appropriations act allows the Department to make discretionary grants to improve port facilities at or near coastal seaports. This Program supports the Department of Transportation (DOT) strategic goal of infrastructure investment to ensure safety and to stimulate economic growth, productivity and competitiveness for American workers and businesses. DOT seeks to work effectively with State, local, Tribal, and private partners to guide investments that stimulate economic growth, improve the condition of transportation infrastructure, and enable the efficient and safe movement of people and goods. To achieve this goal, DOT will provide guidance, technical assistance, and research that leverages Federal funding, accelerates project delivery, reduces project lifecycle costs, and optimizes the operation and performance of existing facilities. By using innovative forms of project delivery, encouraging partnerships between the public and private sectors, and strategically balancing investments across various modes of transportation to promote greater efficiencies, DOT can maximize the returns to the Nation's economy and people.

Respondents: A port authority, a commission or its subdivision or agent under existing authority, as well as a State or political subdivision of a State or local government, a Tribal government, a public agency or publicly chartered authority established by one or more States, a special purpose district with a transportation function, a multistate or multijurisdictional group of entities, or a lead entity described above jointly with a private entity or group of private entities.

Affected Public: State, Local, or Tribal Government.

Estimated Number of Respondents: 250.

Estimated Number of Responses: 250.

Estimated Hours per Response: 160.

Annual Estimated Total Annual Burden Hours: 40,000.

Frequency of Response: Annually.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.49.

* * * * *

Dated: October 2, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–21824 Filed 10–4–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Information Dissemination Quality Guidelines

AGENCY: Office of the Secretary of Transportation, US Department of Transportation.

ACTION: Updated guidelines.

SUMMARY: The U.S. Department of Transportation (DOT) is issuing updated guidelines to implement section 515 of the Treasury and General Government Appropriations Act for FY 2001. The Office of Management and Budget (OMB) has issued Government-wide guidelines under Section 515 which direct each Federal agency to establish and implement written procedures to ensure and maximize the quality, utility, objectivity and integrity of the information that they disseminate. OMB has directed each agency to update its guidelines in accordance with the requirements of OMB Memorandum M–19–15.

DATES: Comments are due November 6, 2019.

ADDRESSES: You may send comments, identified by DOT–OST–2019–0135, by any of the following methods:

• Follow the instructions for sending comments on *www.regulations.gov,* or email *dockets@dot.gov.* Include DOT–OST–2019–0135 in the subject line of the message.

• *Mail:* Docket Management Facility; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery/Courier:* Room W12–140 on the ground level of DOT, West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received will be posted without change to *www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov* at any time or to Room W12–140 on the ground level of DOT, West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: ''Comments on DOT–OST–2019–0135.'' The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that due to possible delays in the delivery of U.S. mail to federal offices in Washington, DC, we recommend that persons consider an alternative method (internet, or professional delivery service) of submitting comments to the docket and ensuring their timely receipt at DOT.

FOR FURTHER INFORMATION CONTACT: Daniel Morgan, Chief Data Officer, OST, Department of Transportation at 202–366–9201 or by email at *Daniel.Morgan@dot.gov.* For specific inquiries on the Department's administration mechanisms for seeking correction of information covered by these guidelines, or for specific inquiries about the Department's statistical guidelines, please refer to the contacts listed in the guidelines.

SUPPLEMENTARY INFORMATION: Pursuant to Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554), and consistent with the Office of Management and Budget's (OMB) ''Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies,'' and OMB Memorandum M–19–15, ''Improving Implementation of the Information Quality Act,'' the Department is revising its Information Dissemination Quality Guidelines (Guidelines). These guidelines were originally issued in 2002. The Department's Guidelines apply to a wide variety of its information dissemination activities to meet basic information quality standards. The Guidelines provide a framework under which the Department allows affected persons an opportunity to seek and obtain correction of information maintained and disseminated by the Department that does not comply with these guidelines.

The written procedures established within DOT's guidelines apply to the following organization components of the Department: The Office of the Secretary, the Federal Aviation Administration, the Federal Motor Carrier Safety Administration, the Federal Railroad Administration, the Federal Transit Administration, the Maritime Administration, the National Highway Traffic Safety Administration, the Pipeline and Hazardous Materials Safety Administration, and the Saint Lawrence Seaway Development Corporation.

The updated guidelines are available on the Department's website at *https://www.transportation.gov/dot-information-dissemination-quality-guidelines* and in the docket. The Department seeks comment on the guidelines and the proposed changes.

Authority: Issued in Washington, DC on October 1, 2019.

Ryan Cote,

Chief Information Officer, Department of Transportation, Office of the Secretary.

The Department of Transportation's Information Dissemination Quality Guidelines

What is the purpose of this posting?

Consistent with The Office of Management and Budget's (OMB) Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies implementing Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554) and the requirements outlined in OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act, the U.S. Department of Transportation (henceforth DOT or Department) is updating guidelines explaining how the Department will ensure the quality of disseminated information. This document also explains how affected persons may seek and obtain corrections of information that does not comply with these Information Quality guidelines.

What version are these guidelines?

These Guidelines were originally published on October 1, 2002 and were updated on October 1, 2019.

When are these guidelines effective?

These Guidelines are effective October 1, 2019.

Who should be contacted for further information about these guidelines?

Daniel Morgan, Assistant Chief Information Officer for Data Services/Chief Data Officer, *DOTCIO@dot.gov* or 202–366–9201. For inquiries on the Department's administrative mechanisms for persons to seek correction of information, please contact the Office of the General Counsel, 202–366–4702. For inquiries on the guidelines concerning statistical disseminated information, contact the Bureau of Transportation Statistics, U.S. Department of Transportation; 800–853–1351 or 202–366–DATA (3282). Written correspondence may be addressed to the U.S. Department of Transportation, Office of the Chief Information Officer (S–80), 1200 New Jersey Avenue SE, Washington, DC, 20590.

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10. What are the definitions associated with these guidelines?

1. What is the background and purpose of these guidelines?

The Department of Transportation (DOT) is updating guidelines originally released in 2002 to implement Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554). The Office of Management and Budget (OMB) previously issued guidelines under Section 515 which direct Federal agencies subject to the Paperwork Reduction Act (44 U.S.C. Chapter 35) to establish and implement written guidelines to ensure and maximize the quality, utility, objectivity and integrity of the information that they disseminate. These updated 2019 DOT guidelines apply to a wide variety of substantive information dissemination activities to meet basic information quality standards set forth by Section 515. Under Section 515, the Department is responsible for carrying out the OMB information quality guidelines as well as for implementing its own guidelines that are set forth in this document. Consequently, when this document refers to ''the guidelines,'' it should be taken to refer to the OMB guidelines, as applied to DOT programs and activities, *as well as* the 2019 DOT guidelines themselves, unless the context suggests otherwise.

The purpose of these 2019 DOT guidelines is to provide a framework for DOT's compliance with the OMB guidelines, and to provide affected persons an opportunity to seek and obtain correction of information maintained and disseminated by DOT that does not comply with these guidelines. DOT has designated the Departmental Chief Information Officer (CIO) as the senior official responsible for DOT compliance with these guidelines. Administrators of DOT's Operating Administrations (OAs) are also responsible for ensuring proper implementation of these Departmental guidelines. The CIO is responsible for the Office of the Secretary's compliance.

In implementing these guidelines, the Department acknowledges that ensuring the quality of information is an important management objective that takes its place concurrently with other Departmental objectives, such as ensuring the success of agency missions, observing budget and resource priorities and restraints, and providing useful information to the public.

These guidelines were updated in 2019 to reflect current procedures and compliance with OMB's Memorandum M–19–15. Implementation updates from that memorandum are footnoted where they are addressed in this update.

2. To which DOT operating administrations do these guidelines apply?

These guidelines apply to the Office of the Secretary of Transportation (OST) and to the following DOT OAs.

- Federal Aviation Administration (FAA)
- Federal Highway Administration (FHWA)
- Federal Motor Carrier Safety Administration (FMCSA)
- Federal Railroad Administration (FRA)
- Federal Transit Administration (FTA)
- Maritime Administration (MARAD)
- National Highway Traffic Safety Administration (NHTSA)
- Pipeline and Hazardous Materials Safety Administration (PHMSA)
- Saint Lawrence Seaway Development Corporation (SLSDC)

DOT OAs may adopt further guidance, consistent with these guidelines, to address the specifics of their programs and information products.

3. What are the scope, nature and legal effect of these guidelines?

Scope

These guidelines apply to certain information (including both statistical and non-statistical data, as well as computer software (including code) as defined in 48 CFR 27.401 and 48 CFR 2.101 and in accordance with the Federal Source Code Policy). These guidelines apply to information disseminated by DOT on or after October 1, 2002, regardless of when the information was first disseminated. Maintenance of information on DOT websites or paper files does not, in itself, subject information disseminated before this date to the guidelines. However, information that the Department maintains in a way that is readily available to the public and that continues to play a significant, active role in Department program or in private sector decisions is subject to the guidelines. These guidelines apply to information dissemination in all media (printed, electronic, or in other form). When the Department has performed analysis using a specialized set of computer code, the computer code used to process it should be made available to the public for further analysis, if consistent with applicable law and policy.[1] As is the intent of OMB's guidelines, DOT's guidelines will focus primarily on the dissemination of substantive information (*e.g.,* reports, tabular and geospatial datasets, analyses, studies, summaries) rather than information pertaining to basic agency operations.

The standards of these guidelines apply only to information that DOT generates. However, these guidelines serve as recommendations for information that external sources provide to DOT, if the external parties seek to have the Department rely upon or disseminate this information or the Department decides to do so. When using non-government sources to create influential information (as defined below) that is communicated to the public, DOT will include sufficient information on the characteristics of the data and analysis, including its scope, generation protocols, and any other information necessary to allow the public to reproduce that source's conclusions.[2] For example, suppose that a trade association, in commenting on a proposed rule, supplies a scientific or technical study or an economic analysis in support of its position on what the final rule should say. For DOT to rely on this information in a subsequent DOT dissemination of information (*e.g.,* as part of the basis cited for decisions in the final rule), the quality of the trade association's information would have to be consistent with these guidelines. Likewise, if the Department

[1] Implementation Update 3.2, OMB Memorandum M–19–15, April 24, 2019.

[2] Implementation Update 3.3, OMB Memorandum M–19–15, April 24, 2019.

disseminates information originally created by, for example, a contractor or consultant, these guidelines would apply. The types of Departmental information not subject to these guidelines are outlined in Section 4.

Influential Information

The OMB guidelines and subsequent Information Quality Bulletin for Peer Review define ''influential information'' as information that the agency reasonably can determine ''will have or does have a clear and substantial impact on important public policies or important private sector decisions.'' This definition applies only to scientific, financial, or statistical information. DOT defines ''scientific information'' as in the Information Quality Bulletin for Peer Review (excerpted below) and notes that DOT considers financial and statistical information to be types of scientific information.

''The term ''scientific information'' means factual inputs, data, models, analyses, technical information, or scientific assessments based on the behavioral and social sciences, public health and medical sciences, life and earth sciences, engineering, or physical sciences. This includes any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms. This definition includes information that an agency disseminates from a web page, but does not include the provision of hyperlinks to information that others disseminate. This definition does not include opinions, where the agency's presentation makes clear that what is being offered is someone's opinion rather than fact or the agency's views.''

Note that the definition above applies to information itself, not to decisions that the information may support. The guidelines assign to DOT the task of defining ''influential information'' in ways appropriate to the agency and its various programs.

At DOT, influential information may be used to support rulemakings, regulatory actions, and analysis or other purposes. Every decision DOT makes based on disseminated information is important to someone. That does not mean that disseminated information used for each decision is influential, as the term is used in the guidelines.

In rulemakings, influential information is scientific, financial, or statistical information that can reasonably be regarded as being one of the major factors in the resolution of one or more key issues in a significant rulemaking, as that term is defined in Executive Order 12866. DOT's interpretation of influential information reflects the ''clear and substantial impact'' language in the OMB guidelines language. The reference to key issues on significant rules reflects the ''important'' public policy language of the guidelines.

In non-rulemaking contexts, DOT considers two factors in determining whether information is influential.

- *Breadth:* Influential information affects a broad number and/or range of stakeholders or parties (*e.g.,* an entire industry or a significant part of an industry, as opposed to a single company). In making this determination, the Department would also evaluate the overall magnitude of the impact of the information, not only its impact on a per capita or per unit basis.
- *Impact:* Influential information has a substantial economic, regulatory, or behavioral impact, as determined by the DOT Component. In considering whether information has a substantial impact, DOT Components consider the same kinds of factors that cause a rule to be an economically significant rule as defined in Executive Order 12866. DOT-initiated or sponsored distribution of influential information may be novel, controversial, and/or precedent-setting.

When DOT substantially changes information that it disseminates, such as through a change in information collected under the Paperwork Reduction Act (PRA), DOT will re-evaluate the information disseminated to determine whether it is influential. DOT reserves the right to designate other information as influential provided the information is scientific, financial, or statistical, although Components should not designate information products or types of information as influential without consultation with the Department Chief Information Officer.

Protecting Data

DOT is prioritizing increased access to the data and analytic frameworks (*e.g.,* models) used to generate influential information. Data disclosures will be consistent with statutory, regulatory, and policy requirements for protections of privacy and confidentiality, proprietary data, and confidential business information.[3] DOT uses and continues to explore methods that provide wider access to datasets while reducing the risk of disclosure of personally identifiable information (PII) and/or sensitive data. Implementation of these approaches (*e.g.,* tiered access) is consistent with principles for ethical governance, which include employing sound data security practices, protecting individual privacy, maintaining appropriate confidentiality, and ensuring appropriate access and use.[4] These methods apply to both government and non-government information and data used in the development of influential information and data. DOT retains data in accordance with established records schedules and the DOT Records Management Policy (DOT Order 1351.28).[5]

Nature and Legal Effect

These guidelines are policy views of DOT. They are not intended to be, and should not be construed as, legally binding regulations or mandates. These guidelines are intended only to improve the internal management of DOT and do not create any right or benefit, substantive or procedural, enforceable at law or equity, by any party against the United States, its agencies (including DOT or any Component), officers, or employees, or any person.

This guidance is not legally binding in its own right and will not be relied upon by the Department as a separate basis for affirmative enforcement action or other administrative penalty. Conformity with this guidance is voluntary only and nonconformity will not affect rights and obligations under existing statutes and regulations.

4. What types of information are not subject to these guidelines?

The following information is not subject to these guidelines:

- Distribution of information that is intended to be limited to government employees, agency contractors or grantees;
- Distribution of information that is intended to be limited to intra- or inter-agency use or sharing of government information; responses to requests under FOIA, Privacy Act, the Federal Advisory Committee Act or other similar laws;
- Predisclosure Notification to Submitters of Confidential Commercial Information (49 CFR 7.29);
- Distribution limited to correspondence with individuals or persons (regardless of medium, *e.g.,* email). The possibility of further distribution by the recipient does not

[3] Implementation Update 3.4, OMB Memorandum M–19–15, April 24, 2019.

[4] Implementation Update 3.5, OMB Memorandum M–19–15, April 24, 2019.

[5] *https://www.transportation.gov/digitalstrategy/policyarchive/Records-Management.*

cause such correspondence to be subject to these guidelines. However, information sent by letter to a wide variety of individuals (*e.g.,* a ''Dear Colleague'' letter sent to heads of all recipients of financial assistance from a DOT OA) would be subject to coverage under these guidelines;

• Archival records disseminated by Federal agency libraries, websites, or similar Federal data repositories; (*e.g.,* inactive or historical materials in DOT libraries and other data collections—including bibliographies or responses to reference requests pertaining to such materials);

• Public filings, such as material filed by DOT or non-DOT parties in DOT dockets or by DOT in other agencies' dockets. For example, a study filed in the DOT docket by a commenter on a proposed rule does not become subject to these guidelines simply because it has been filed there. However, if the Department chooses to rely on the study in the rulemaking or another information product, the study would become subject to these guidelines because of the Department's use of it;

• Contents of the National Transportation Library that are not products of DOT-funded research or DOT-funded data collections.

• Information intended to be limited to subpoenas and adjudicatory processes. These processes would include:

1. Court or administrative litigation (*e.g.,* briefs and attachments, or other information that the Department submits to the court or other decision maker);

2. Administrative enforcement proceedings conducted by the Department;

3. Civil rights and personnel complaints and reviews conducted by the Department (*e.g.,* under Titles VI and VII of the Civil Rights Act; the Americans with Disabilities Act; Sections 501, 504 and 508 of the Rehabilitation Act of 1973; Title IX of the Education Amendments of 1972, and Disadvantaged Business Enterprise matters);

4. Debarment and suspension matters, 49 CFR part 29 (Federal-aid contracts) and 48 CFR part 9 (direct contracts);

5. Merit System Protection Board matters (Sections 7511, 7543, and 70701 of Title 5, United States Code);

6. Locomotive engineer certification matters, 49 CFR part 240, subpart E-Dispute Resolution procedures;

• Hyperlinks to information that others disseminate (as well as paper-based information from other sources referenced but not adopted or endorsed by DOT);

• Views or opinions, where the presenter makes it clear that what is being offered is someone's opinion rather than fact or the Department's views;

• Information presented to Congress as part of the legislative or oversight processes (*e.g.,* testimony of DOT officials, information or drafting assistance provided to Congress about pending or proposed legislation or oversight) that has previously been subject to the guidelines, is primarily a statement of the views of the Department on an issue, or is provided to a member of Congress who then disseminates it publicly. However, the Department would treat studies or other information products that are presented to Congress, and that have not previously been subject to these guidelines, as being covered.

• Press releases and other information of an ephemeral nature, advising the public of an event or activity of a finite duration—regardless of medium. Information products referenced in such releases may be subject to the guidelines, however (*e.g.,* a study referred to in a press release); and

• Procedural, operational, policy, and internal manuals prepared for the management and operations of DOT that are not primarily intended for public dissemination. This includes personnel notices such as vacancy announcements.

5. What general standards of quality are DOT operating administrations implementing?

DOT has traditionally utilized standards, policies, and other operational guidelines to ensure the quality of all its disseminated information. Incorporating these guidelines further reinforces DOT's commitment of meeting higher standards of quality prior to disseminating information to the public. The Department has made implementation of these guidelines a part of its performance plan, including performance goals and standards.

To ensure compliance with these guidelines, each DOT Component is responsible for appointing a data quality official who will serve as the liaison for implementing these guidelines within its organization.

OMB's guidelines define ''quality'' as an encompassing term comprising utility, objectivity, and integrity. Therefore, the guidelines sometimes refer to these statutory terms, collectively, as ''quality.'' At a minimum, a basic standard of quality is established for all DOT information prior to its dissemination. In addition, repeatedly or continuously disseminated information is reviewed on a regular basis to ensure all information is current and complies with these guidelines. Specifically, DOT will set the following standards at levels appropriate to the nature and timeliness of substantive information to be disseminated.

Utility

DOT Components will assess the usefulness of the information to be disseminated to the public. The originating office will continuously monitor the information needs and develop new sources or revise existing methods, models, and information products where appropriate.

DOT's policy is to disseminate information in machine-readable and open formats, to the greatest extent possible, such that the information that can be easily consumed by a wide external audience. DOT's Data Management Policy (DOT Order 1351.34) outlines requirements for interoperability and standardization of data and information.

DOT's policy is to provide the public with sufficient documentation about each dataset released to allow data users to determine the fitness of the data for the purpose for which third parties may consider using it.[6] DOT may employ templates or frameworks provide data users with the relevant information.

Objectivity

DOT Components will ensure disseminated information is accurate, clear, complete, and unbiased in substance and presentation, and presented in a proper context. The originating office will use reliable data sources and sound analytical techniques. Quality control procedures will be included when data is created or processed. To the extent possible and consistent with confidentiality protections, the originating office will identify the source of disseminated information so that the public can assess whether the information is objective. The 2012 version of DOT's Scientific Integrity Policy,[7] states:

''The Department is dedicated to preserving the integrity of the research it conducts and funds. It will not tolerate misconduct in the performance of these activities nor in the application of these activities to decision-making. Political appointees at DOT should never suppress or

[6] Implementation Update 2.2, OMB Memorandum M–19–15, April 24, 2019.

[7] Available at *https://www.transportation.gov/sites/dot.gov/files/docs/mission/administrations/assistant-secretary-research-and-technology/282391/scientificintegritypolicy.pdf.*

alter research findings or conclusions. Political appointees are not to censure or coerce DOT employees to alter scientific findings. This policy encompasses all sciences including hard, natural and life, and social sciences, and all findings including results derived from data (actual or simulated).''

DOT employees are prohibited from any behavior that attempts to inappropriately alter the scientific process or to suppress, fabricate, or falsify scientific findings.

The Department follows a policy of determining, in consultation as appropriate with relevant scientific and technical communities, when it is useful and practicable to apply reproducibility standards to original and supporting data. In making such determinations, the Department will be guided by commonly accepted scientific, financial or statistical standards, as applicable. The Department's Scientific Integrity Policy guides its scientific research. With respect to analytic results, the Department's policies favor sufficient transparency about methods to allow independent reanalysis by qualified members of the public. In situations where public access will not occur (*e.g.,* because of confidentiality requirements or the use of proprietary models), the Department's policy is to apply and document especially rigorous robustness checks.

In OMB's guidelines, one of the aspects of ensuring objectivity concerns the use of peer review. For information products to which peer review is relevant, OMB's guidelines create a rebuttable presumption that the information meets the OMB guidelines' objectivity standards if the data and analytic results have been subject to formal, independent, external peer review. Anyone seeking to rebut this presumption (*i.e.,* as part of the request for correction process) would have the obligation of demonstrating that the information was not substantively accurate, clear, complete, or unbiased, both as to substance and presentation, and in a proper context.

With respect to influential scientific information disseminated by the DOT Components regarding analysis of risks to human health, safety, and the environment, DOT Components will adopt, with respect to the analysis in question, quality principles of the Safe Drinking Water Act of 1996 (42 U.S.C. 300g–1(b)(3)(A) & (B), except where the agency adapts these principles to fit the needs and character of the analysis. These principles are as follows:

- Use the best available science and supporting studies conducted in accordance with sound and objective scientific practices, including peer-reviewed studies where available.
- Use data collected by accepted methods or best available methods, in accordance with all applicable standards (if the reliability of the method and the nature of the decision justifies the use of the data), and document methods used in metadata which accompanies disseminated datasets.
- In the dissemination of influential scientific information about risks, ensure that the presentation of information is comprehensive, informative, and understandable, and that influential information is accompanied by a clear explanation of underlying assumptions. In a document made available to the public, specify, to the extent practicable:

1. Each population addressed by any estimate of applicable effects.
2. The expected risk or central estimate of risk for the specific populations affected.
3. Each appropriate upper bound or lower-bound estimate of risk.
4. Each significant uncertainty identified in the process of the risk assessment and studies that would assist in reducing the uncertainty.
5. Any additional studies, including peer-reviewed studies, known to the agency that support, are directly relevant to, or fail to support the findings of the assessment and the methodology used to reconcile inconsistencies in the scientific data.

In 2019, DOT revisited the parameters for identifying and disseminating influential information. DOT will provide guidance for determining the amount and type of pre-dissemination review necessary, specific types of information that are influential and a rigorous process for determining whether types of information not specifically listed in the guidelines qualify as influential.[8] DOT will ensure that influential information is communicated transparently by including a clear explication of underlying assumptions, accurate contextualization of uncertainties, and a description of the probabilities associated with both optimistic and pessimistic projections, including best-case and worst-case scenarios.[9]

Prior to dissemination, all influential information produced by the DOT shall be peer reviewed by subject matter experts (may be either internal or external to DOT, or both) that have not participated in the preparation of the influential information being reviewed. When using scientific information, including third-party data or models, to support their policies, DOT will comply with the requirements of OMB's Information Quality Bulletin for Peer Review. DOT will ensure reviewers are asked to evaluate the objectivity of the underlying data and the sensitivity of conclusions to analytic assumptions. Furthermore, when influential information that has been peer-reviewed changes significantly, DOT will conduct a second peer review.[10] Peer review will also apply to influential information in economically significant regulations under Executive Order 12866.

Integrity

DOT's policy is to ensure that information is protected from unauthorized access, corruption or revision (*i.e.,* make certain disseminated information is not compromised through corruption or falsification). The Department will apply appropriate protections to information as determined by DOT policy. DOT Components will comply with relevant Department policies that protect the integrity of information, including but not limited to:

- DOT Order 1351.18, Departmental Privacy Risk Management Policy
- DOT Order 1351.37, Departmental Cybersecurity Policy

Accessibility

DOT's policy is to ensure that all disseminated information (including electronic and web-based media) is accessible to all persons. DOT Components will comply with relevant Departmental policies that ensure the accessibility of disseminated information, including but not limited to DOT Order 1351.23, Electronic and Information Technology (EIT) Accessibility Policy.

Public Access to Government Information (Open Data)

When DOT makes available information originally collected by another agency, the contributing agency is responsible for the quality of the information they contribute, and DOT will clearly communicate that responsibility.

DOT's policy is to provide the public with sufficient documentation about each dataset to allow data users to determine fitness for purpose. DOT will, when applicable, safeguard privacy and

[8] Implementation Update 1.1, OMB Memorandum M–19–15, April 24, 2019.

[9] Implementation Update 3.1, OMB Memorandum M–19–15, April 24, 2019.

[10] Implementation Updates 1.2–1.4, OMB Memorandum M–19–15, April 24, 2019.

confidentiality when releasing data. DOT Components will comply with the DOT Order 1351.34, Departmental Data Management Policy, when disseminating, sharing, safeguarding, and evaluating data and information.

Re-Use of Existing DOT Program Data

DOT will:

- Consider potential for using existing data sources from inside and outside the agency for statistical and research purposes, while protecting privacy and confidentiality.
- Solicit comments about downstream uses from statistical, research, and evaluation agencies/offices when designing or improving data collection systems.
- Coordinate with the Senior Agency Official for Privacy if considering secondary analysis that involves PII.
- Develop procedures for clearly documenting the quality of administrative data that have the potential to be used for statistical purposes.[11]

DOT's Data Management Policy (DOT Order 1351.34) also provides detailed information regarding re-use of data and information.

6. What additional standards of quality are DOT operating administrations implementing for statistical information?

The Bureau of Transportation Statistics (BTS) provides additional guidance for statistical information. Under 49 U.S.C. 6302(b)(3)(B), the BTS Director is required to:

- Continually improve surveys and data collection methods of the Department to improve the accuracy and utility of transportation statistics;
- Encourage the standardization of data, data collection methods, and data management and storage technologies for data collected by the Bureau; the operating administrations of the Department (OAs); State and local governments; metropolitan planning organizations; and private sector entities;
- Build and disseminate the transportation layer of the National Spatial Data Infrastructure. . . including by coordinating the development of transportation geospatial data standards, compiling intermodal geospatial data, and collecting geospatial data that is not being collected by other entities;
- Issue guidelines for the collection of information by the Department that the BTS Director determines necessary to develop transportation statistics and carry out modeling, economic assessment, and program assessment activities to ensure that such information is accurate, reliable, relevant, uniform, and in a form that permits systematic analysis by the Department;
- Review and report to the Secretary on the sources and reliability of the statistics proposed by the heads of the OAs of the Department to measure outputs and outcomes as required by the Government Performance and Results Act of 1993 (Pub. L. 103–62; 107 Stat. 285); and at the request of the Secretary, any other data collected or statistical information published by the heads of the OAs of the Department; and
- Ensure that the statistics published under [49 U.S.C. 6302] are readily accessible to the public, consistent with applicable security constraints and confidentiality interests.

BTS has published a Statistical Standards Manual,[12] a Guide to Good Statistical Practice in the Transportation Field,[13] and a Confidentiality Policy.[14] BTS maintains these documents to reflect current statistical policies and methods regarding data quality and confidentiality as well as challenges related to new data sources and analytical methods. The most current version of these manuals and guides applies.

As one of the 13 principal federal statistical agencies, BTS adheres to all Statistical Policy Directives of the Office of Management and Budget (OMB). These directives are published at *https://www.whitehouse.gov/omb/information-regulatory-affairs/statistical-programs-standards/.*

7. What processes does DOT utilize to ensure information quality before it is disseminated?

DOT's policy is to conduct a pre-dissemination review on all information it disseminates on or after October 1, 2002. During this review, each DOT organization shall conduct subject matter expert (internal or external, or both) peer reviews and other review mechanisms to ensure the quality of all disseminated information. The costs and benefits of using a higher quality standard or a more extensive review process will be considered in deciding the appropriate level of review and documentation. With respect to information collection requirements covered by the PRA, the Department will ensure that these requirements are consistent with the guidelines and will so state in the PRA submission to OMB. The main components of DOT's pre-dissemination review policy are:

- Allow adequate time for reviews, consistent with the level of standards required for the type of information to be disseminated. Consult with other stakeholders who have a substantial interest in the proposed dissemination of the information.
- Verify compliance with these guidelines (*i.e.,* utility, objectivity, integrity and accessibility requirements) as well as other DOT organization specific guidance/procedures;
- With respect to information a DOT organization believes to be influential, maintain internal records of what additional standards will be applied to ensure its quality.
- Ensure that the entire information product fulfills the intentions stated and that the conclusions are consistent with the evidence;
- Indicate origin of data (when including data from an external source); and
- Ensure that each program office can provide additional data or metadata on the subject matter of any covered information it disseminates.

8. What are DOT'S procedures concerning requests for correction of information?

You may request the correction of information from the Department, but not all requests for correction fall under these Guidelines. For instance:

- The DOT maintains certain information about individuals in its systems of records that those individuals may know or suspect is inaccurate, irrelevant, untimely, or incomplete. In such cases, the Privacy Act permits those individuals to request that the DOT correct or amend the information. To learn more about your rights under the Privacy Act, please visit: *https://www.transportation.gov/privacy.*
- The DOT maintains information in support of its basic agency operations that relevant parties may have an opportunity to correct. In such cases, individual DOT programs may develop their own review and redress procedures that are not subject to these Guidelines. To learn more about such programs, please visit the website of the relevant DOT OA.

To request correction of information that is subject to these Guidelines, follow the procedures below.

[11] Implementation Updates 2.3–2.6, OMB Memorandum M–19–15, April 24, 2019.

[12] Available at *https://www.bts.gov/learn-about-bts-and-our-work/statistical-methods-and-policies/bts-statistical-standards-manual.*

[13] Available at *https://www.bts.gov/archive/publications/guide_to_good_statistical_practice_in_the_transportation_field/index.*

[14] Available at *https://www.bts.gov/confidentiality.*

May I request a correction of information from the Department?

You may request that the Department correct information disseminated after October 1, 2002. Information originally disseminated *before* October 1, 2002, is subject to this correction process if it remains publicly available (*e.g.,* it is posted on a DOT website or the Department makes it available on a generally distributed information source) and it continues to play a significant, active role in Department programs or in private sector decisions. If data or information is already covered by an existing quality review process, it will be addressed by that process and not by the correction of information procedure described here. If the information relates to a final Environmental Impact Statement (EIS), the DOT organization may handle the request as though it were a request for a Supplemental EIS.

Where do I submit a request for correction of information?

You may make a request for correction of information or request for reconsideration by emailing *InformationQuality@dot.gov.* If you wish to use postal mail, please send your request to: U.S. Department of Transportation (DOT), Docket Management, Re: Request for Correction of Information under the Information Quality Act, West Building, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

How does the Department process incoming requests for correction?

We will post incoming requests for correction, requests for reconsideration and DOT organizational responses on the Federal Dockets Management System.

You should be aware that the Department is not required to change, or in any way alter, the content or status of information simply based on the receipt of a request for correction. Nor does the receipt of a request, or consideration by the Department, result in staying or changing any action of the Department. The receipt of a request for correction likewise does not affect the finality of any decision of a DOT Component.

What should you include in a request for correction of information?

You should:

- Include a statement that you are submitting a request for correction of information under DOT's Information Dissemination Quality Guidelines.
- Include your name, mailing address, email address, telephone number and organizational affiliation, if any.
- Describe how the information in question affects you (*e.g.,* how an alleged error harms you, and/or how the correction will benefit you).
- Clearly identify the report, dataset, or other document that contains the information you want the Department to correct. Please include identifying characteristics such as title, date, and how information was accessed.
- Not rely solely on general statements that allege some type of error. You should specify, in detail, why you believe the information in question is inconsistent with the Department's and/or OMB's information quality guidelines (*i.e.,* how the information fails to meet standards of integrity, utility, and/or objectivity).
- Include any documents and/or evidence you believe is relevant to your request (*e.g.,* comparable data or research results on the same topic).
- Specify what corrections you wish for DOT to make to the information and why the recommended corrections would make the information more consistent with DOT's and/or OMB's information quality guidelines.

May the Department reject a request for correction of information?

Once the appropriate data quality official has received your request for correction of information s/he will review your request and answer the following questions to determine if your request for correction is valid:

1. Did DOT (as opposed to some other person or organization) disseminate the information you are requesting to be corrected?
2. Is the information about which you are requesting a correction from DOT covered by these Guidelines (see Section 4)?
3. Is your request frivolous or not germane to the substance of the information in question?
4. Has DOT responded previously to a request that is the same or substantively very similar? (Note: This does not mean that the Department would automatically reject a second or subsequent information correction request concerning the same information product. If one party made a request concerning one aspect of the information product, and a second party made a request concerning a different aspect of the same product, the two requesters are seeking correction on different grounds and it could be appropriate for the Department to consider both).
5. With respect to information in a final rule, final environmental impact statement, or other final document on which there was an opportunity for public comment or participation with respect to the compliance of the information with these guidelines, could interested persons have requested the correction of the information at the proposed stage?

If the DOT organization determines that the answer to 1,2, or 3 is ''no'' or that the answer to Question 4, 5, or 6 is ''yes,'' DOT has the discretion to reject your request without responding to it on its merits.

If DOT rejects your request, the DOT OA will send a written response explaining why. Normally, the DOT OA will send this response within 60 calendar days of receiving your request. The DOT OA will file this response in the Federal Docket Management System. If the DOT organization does not reject your request, it will consider the request on its merits. DOT will not opine on the requestor's or DOT's policy position. DOT's response will contain a point-by-point response to any data quality arguments contained in the request for correction and will refer to a peer review that directly considered the issue being raised, if available. Prior to the release to the requestor, DOT will share a draft response with OMB for assessment of compliance with the above norms.[15]

Who has the burden of proof with respect to corrections of information?

As the requester, you bear the burden of proof with respect to the necessity for correction as well as with respect to the type of correction you seek.

What determinations does the Department make concerning a request for correction of information?

If DOT considers your request on its merits (that is, does not reject it for one of the reasons stated above), DOT will make the determination whether information subject to the DOT information quality guidelines complies with the guidelines. In doing so, the Department will consider whether the information or the request for correction is stale. If DOT did not disseminate this information recently (*i.e.,* within one year of your request), or it does not have a continuing significant impact on DOT projects or policy decisions or on important private sector decisions, we may regard the information as stale for purposes of responding to a correction request, unless the requestor can show that he or she is affected by its dissemination. If we determine that

[15] Implementation Updates 4.2–4.4, OMB Memorandum M–19–15, April 24, 2019.

information subject to the 2019 DOT guidelines does not comply with the guidelines, the Department will decide what correction is appropriate to make to ensure compliance. While the Department's policy is to correct existing information when necessary, the Department is not obligated to generate new or additional information to respond to requests for correction.

The DOT provides a response directly to the requestor. This response will normally be issued within 60 calendar days of receiving the request. If the response will take significantly longer, DOT will inform the requester that more time is required and indicate the reason why and an estimated decision date. DOT will not take more than 120 days to respond without first seeking the concurrence of the requester.[16] This written explanation to the requestor will also be filed in the Federal Dockets Management System.

How does the Department process requests for correction concerning information on which the Department has sought public comment?

Information in rulemakings and other documents concerning which public participation and comment are sought are subject to these guidelines. However, the Department may respond to requests for correction concerning such information through a different process than we use for other types of information. When the Department seeks public comment on a document and the information in it (*e.g.,* a notice of proposed rulemaking (NPRM), studies cited in an NPRM, a regulatory evaluation or cost-benefit analysis pertaining to the NPRM; a draft environmental impact statement; a proposed policy notice or aviation order on which comment has been sought; a request for comments on an information collection subject to the Paperwork Reduction Act), there is an existing mechanism for responding to a request for correction. This mechanism is a final document that responds to public comments (*e.g.,* the preamble to a final rule). Consequently, our response to a request for correction of such information will normally be incorporated in the next document we issue in the matter.

The Department would consider making an earlier response, if doing so (1) would not delay the issuance of the final action in the matter; and (2) the Department determined that there would be an unusually lengthy delay before the final document would be issued or the requester had persuaded the Department that there was a reasonable likelihood that the requester would suffer actual harm if the correction were not made before the final action was issued.

Once again, the DOT organization will place its response in the Federal Dockets Management System. As noted above, a DOT Component may reject a request for correction with respect to information in a final document if there was an opportunity for public comment or participation with respect to the compliance of information to these guidelines and interested persons could have requested the correction of the information at the proposed stage.

How may I appeal the Department's decision on a request for correction?

You may request reconsideration under this section if you have requested a correction of information under these guidelines, and you are not satisfied with the DOT organization's response. You should request reconsideration within 30 days of the date you received the DOT Component's decision on your original request for correction.

You should send your request in the same manner, and to the same address, as provided above.

DOT will assign an official or establish a reconsideration panel to determine if additional corrective action is needed, and will issue a written response to the requestor stating the reasons for the decision. DOT will share a draft response of the appeal with OMB prior to release to the requestor for assessment of compliance with the above norms. To protect the integrity of the appeals process, DOT will ensure that individuals reviewing and responding to the appeals request were not involved in the review and initial response to the request for correction.[17]

This guidance is non-regulatory and is not intended to constitute a set of legally binding requirements. However, DOT may be unable to process requests that omit one or more of the requested elements. DOT will attempt to contact and work with requesters to obtain additional information when warranted.

The Department maintains records of all corrections and appeals requests. These records may contain contact information provided by you as authorized by Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 [18] (Pub. L. 106–554, codified at 44 U.S.C. 3516). Contact information is needed to respond to your request and initiate follow-up contact with you if necessary. We may disclose part of the records relating to a correction or correction appeals, including requestor contact information to a congressional office in response to an inquiry made on your behalf, to the Department of Justice, a court, other tribunal when the information is relevant and necessary to litigation, or to a contractor or another Federal agency to help accomplish a function related to this process.

9. What are the department's reporting requirements?

The Departmental Office of the Chief Information Officer will provide annual reports to OMB, including the number and nature of complaints received concerning agency compliance as well as how complaints were resolved.

10. What are the definitions associated with these guidelines?

DOT has adopted the definitions of terms set forth in The Office of Management and Budget's Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies. The following information explains further the way that DOT uses some of these terms.

Reproducibility. Documented methods are capable of being used on the same data set to achieve a consistent result. For more information on this term, please refer to OMB's guidelines.

Dissemination. As provided in OMB's guidelines, these guidelines apply only to information disseminated on or after October 1, 2002. The fact that an information product that was disseminated by DOT before this date is still maintained by the Department (*e.g.,* in DOT's files, in publications that DOT continues to distribute on a website) does not make the information subject to these guidelines or to the request for correction process. As noted above, the Department's policy is to treat as subject to the guidelines information that we maintain in a way that is readily available to the public and that continues to play a significant, active role in Department programs or in private sector decisions.

For example, suppose that DOT first issued a study in 1999. The study is relied upon in a 2000 DOT organization publication, and the DOT organization makes the publication available on its website. This study is not subject to these guidelines or to the request for correction process just because it is ''archived'' in an available paper publication or website. However, if DOT

[16] Implementation Update 4.1, OMB Memorandum M–19–15, April 24, 2019.

[17] Implementation Updates 4.4–4.5, OMB Memorandum M–19–15, April 24, 2019.

[18] *https://www.govinfo.gov/content/pkg/PLAW-106publ554/pdf/PLAW-106publ554.pdf.*

issues a notice of proposed rulemaking in 2003 that relies on the same study, then it becomes subject to these guidelines—because it then has been disseminated (or, one might say ''re-disseminated'') after October 1, 2002.

Departmental Components. Offices, divisions, Operating Administrations (OAs) and comparable elements of the DOT.

Departmental Chief Information Officer (CIO). The Departmental CIO is the senior management official responsible for the DOT Information Dissemination Quality Program.

Data Quality Administrator (DQA). Designated representative in the Office of the CIO responsible for compiling agency reports and serving as agency liaison to OMB.

Data Quality Official (DQO). The DQO serve as the point of contact for the Departmental CIO/Data Quality Administrator and will be responsible for implementing these guidelines within their organization.

Federal Docket Management System. An electronic, image-based database in which all DOT docketed information is stored for easy research and retrieval.

Docket. A docket is an official public record. DOT publishes and stores online information about proposed and final regulations, copies of public comments on proposed rules, and related information in the Federal Docket Management System. DOT uses this docketed material when making regulatory and adjudicatory decisions, and makes docketed material available for review by interested parties. Specific documents covering the same issues are stored together in a docket.

[FR Doc. 2019–21769 Filed 10–4–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

[Docket No. TTB–2019–0001]

Proposed Information Collection; Comment Request (No. 75)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB); Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, and as required by the Paperwork Reduction Act of 1995, we invite comments on the continuing information collection listed below in this notice.

DATES: We must receive your written comments on or before December 6, 2019.

ADDRESSES: As described below, you may send comments on the information collection described below using the ''Regulations.gov'' online comment form for this document, or you may send written comments via U.S. mail or hand delivery. We no longer accept public comments via email or fax.

- *Internet:* To submit comments online, use the comment form for this document posted within Docket No. TTB–2019–0001 on the *Regulations.gov* e-rulemaking website at *https://www.regulations.gov*.
- *U.S. Mail:* Send comments to the Paperwork Reduction Act Officer, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005.
- *Hand Delivery/Courier:* Delivery comments to the Paper Reduction Act Officer, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Suite 400, Washington, DC 20005.

You must reference the information collection's title or recordkeeping requirement number, and OMB control number in your comment.

You may view copies of this document, the information collection described in it, and all comments received in response to this document within Docket No. TTB–2019–0001 at *https://www.regulations.gov.* A link to that docket is posted on the TTB website at *https://www.ttb.gov/forms/comment-on-form.shtml.* You may also obtain paper copies of this document and any comments received in response to it by contacting Michael Hoover at the addresses or telephone number shown below.

FOR FURTHER INFORMATION CONTACT: Michael Hoover, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; 202–453–1039, ext. 135; or *informationcollections@ttb.gov* (please do not submit comments to this email address).

SUPPLEMENTARY INFORMATION:

Request for Comments

The Department of the Treasury and its Alcohol and Tobacco Tax and Trade Bureau (TTB), as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on the continuing information collection described below in this notice, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Comments submitted in response to this notice will be included or summarized in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments are part of the public record and subject to disclosure. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether this information collection is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the information collection's burden; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the information collection's burden on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information has a valid OMB control number.

Information Collections Open for Comment

Currently, we are seeking comments on the following recordkeeping requirement:

OMB Control No. 1513–0110

Title: Recordkeeping for Tobacco Products Removed in Bond from a Manufacturer's Premises for Experimental Purposes—27 CFR 40.232(e).

Abstract: The IRC at 26 U.S.C. 5704(a) provides that manufacturers of tobacco products may remove tobacco products for experimental purposes without payment of Federal excise tax, as prescribed by regulation. Under that authority, the TTB regulations at 27 CFR 40.232(e) require the keeping of certain usual and customary business records regarding the description, shipment, use, and disposition of tobacco products removed for experimental purposes outside of the factory. These records are subject to TTB inspection and are necessary to protect the revenue, as they allow TTB to account for the lawful experimental use and disposition of nontaxpaid tobacco products, and to detect diversion of such products into the domestic market.

Current Actions: There are no changes to this information collection or its estimated burden, and TTB is submitting it for extension purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Annual Burden:

- *Number of Respondents:* 235.
- *Average Responses per Respondent:* One.
- *Number of Responses:* 235.
- *Average per-response and Total Burden:* None. (Per the OMB regulation at 5 CFR 1320.3(b)(2), there is no burden associated with the collection of usual of customary records kept during the normal course of business.)

Dated: September 30, 2019.

Amy R. Greenberg,

Director, Regulations and Rulings Division.

[FR Doc. 2019–21796 Filed 10–4–19; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0823]

Agency Information Collection Activity Under OMB Review: Expanded Access to Non-VA Care Through the MISSION Program: Veterans Community Care Program (VCCP)

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Health Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 6, 2019.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov*. Please refer to ''OMB Control No. 2900–0823'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Danny S. Green, Office of Quality, Performance and Risk (OQPR), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 421–1354 or email *danny.green2@va.gov* Please refer to ''OMB Control No. 2900–0823'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: Expanded Access to Non-VA Care through the MISSION Program: Veterans Community Care Program (VCCP) (VA Forms 10–10143, 10–10143a, 10–10143b, 10–10143c and 10–10143e)

OMB Control Number: 2900–0823.

Type of Review: Non-substantive change to a currently approved collection.

Abstract: Section 101 of the VA Maintaining Internal Systems and Strengthening Integrated Outside Networks (MISSION) Act of 2018 requires VA to implement the Veterans Community Care Program (VCCP) to furnish care in the community to covered Veterans through eligible entities and providers, under circumstances as further prescribed in the MISSION Act. VA currently collects information that will be required to implement the Veterans Community Care Program under the Veterans Choice Program, through an OMB approved collection 2900–0823. OMB Collection 2900–0823 includes VA Form 10–10143, Election to Receive Authorized Non-VA Care and Selection of Provider for the Veterans Choice Program; VA Form 10–10143a, Health-Care Plan Information for the Veterans Choice Program; VA Form 10–10143b, Submission of Medical Record Information under the Veterans Choice Program; VA Form 10–10143c, Submission of Information on Credentials and Licenses by Eligible Entities and Providers; and VA Form 10–10143e,Secondary Authorization Request for VA Community Care.

VA seeks to update OMB collection 2900–0823 to implement the Veterans Community Care Program by updating the title of VA forms and any associated statutory citations to be consistent with the new program and the MISSION Act, and by updating burden hours to account for estimated increased use of community care under the new program.

This collection of information is required to properly adjudicate and implement the requirements of the MISSION Act.

a. VA Form 10–10143 will collect Veteran information on whether covered Veterans would elect to receive authorized care under the VCCP if certain conditions are met, as required by 38 U.S.C. 1703(d)(3). This form also will allow a covered Veteran to specify a particular non-VA entity or provider.

b. VA Form 10–10143a will collect other health insurance information from covered Veterans who elect to participate in the VCCP, as required by 38 U.S.C. 1705A. This information also is required by 38 U.S.C. 1703(j), which requires VA to recover or collect reasonable charges for community care that is furnished from a health care plan contract described in 38 U.S.C. 1729.

c. VA Form 10–10143b will collect health records of covered Veterans from non-VA health care entities and providers for care authorized under the VCCP, as required by 38 U.S.C. 1703(a)(2)(A), which requires VA to establish a mechanism to receive medical records from non-VA providers. A copy of all medical and dental records (including but not limited to images, test results, and notes or other records of what care was provided and why) related to a Veteran's care provided under the VCCP must be submitted to VA, including any claims for payment for the furnishing of such care.

d. VA Form 10–10143c will collect information from non-VA entities and providers concerning relevant credentials and licenses as required for such entities or providers to furnish care and services generally. This information is authorized by section 133 of the MISSION Act, which requires VA to establish competency standards for non-VA providers, as well as 38 U.S.C. 1703C(a)(1), which requires VA to establish certain standards of quality for furnishing care and services (including through non-VA providers).

e. VA Form 10–10143e will collect secondary authorization requests from non-VA entities and providers to furnish care and services in addition to or supporting the original authorization for care. This information is required by 38 U.S.C. 1703(a)(3), which establishes that a covered Veteran may only receive care or services under the VCCP upon VA's authorization of such care or services.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 84 FR 35181 on July 22, 2019, pages 35181 and 35182.

VA Form 10–10143

Affected Public: Individuals or households.

Estimated Annual Burden: 610,833 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 3,665,000.

VA Form 10–10143a

Affected Public: Individuals or households.

Estimated Annual Burden: 610,833 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 3,665,000.

VA Form 10–10143b

Affected Public: Private Sector.

Estimated Annual Burden: 1,039,332 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Average of 34 times annually.

Estimated Number of Respondents: 366,823.

VA Form 10–10143c

Affected Public: Private Sector.

Estimated Annual Burden: 10,190 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 122,274.

VA Form 10–10143e

Affected Public: Private Sector.

Estimated Annual Burden: 611,372 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: Average of 5 times annually.

Estimated Number of Respondents: 366,823.

By direction of the Secretary.

Danny S. Green,

Interim VA Clearance Officer, Office of Quality, Performance and Risk (OQPR), Department of Veterans Affairs.

[FR Doc. 2019–21704 Filed 10–4–19; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0846]

Agency Information Collection Activity: VA Financial Services Center (VA–FSC) Vendor File Request Form

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Health Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before December 6, 2019.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Brian McCarthy, Office of Regulatory and Administrative Affairs (10B4), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *Brian.McCarthy4@va.gov.* Please refer to ''OMB Control No. 2900–0846'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Brian McCarthy at (202) 615–9241.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: VA Financial Services Center (VA–FSC) Vendor File Request Form (VA Form 10091)

OMB Control Number: 2900–0846.

Type of Review: Extension of a currently approved collection.

Abstract: The authorizing statute for this data collection falls under 31 U.S.C. 3701 and Public Law 104–134, Section 31001, Debt Collection Improvement Act of 1996. The mission of the Nationwide Vendor File Division of the Department of Veterans Affairs—Financial Services Center (VA–FSC) is to add, modify, or delete vendor records in the Financial Management Services (FMS) vendor file. The VA–FSC FMS vendor file controls aspects of when, where, and how vendors are paid. There are currently more than 2.4 million active vendor records in FMS.

The VA–FSC Vendor File Request Form, VA Form 10091, was previously created to streamline the data required to establish a vendor record from multiple sources into a single form. The VA now seeks a routine three-year extension of the previous OMB PRA clearance for this form. VA Form 10091 will be used throughout the VA to gather essential payment data from vendors (commercial, individuals, Veterans, employees, etc.) to establish or update vendor records in order to process electronic payments through the ACH network to the vendor's financial institution.

Affected Public: Individuals and households.

Estimated Annual Burden: 37,500 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 150,000.

By direction of the Secretary.

Danny S. Green,

Interim VA Clearance Officer, Office of Quality, Performance and Risk (OQPR), Department of Veterans Affairs.

[FR Doc. 2019–21756 Filed 10–4–19; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0849]

Agency Information Collection Activity Under OMB Review: Alternate Signer Certification

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 6, 2019.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0849'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Danny S. Green, (202) 421–1354 or email *Danny.Green2@va.gov.* Please refer to ''OMB Control No. 2900–0849'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: Alternate Signer Certification (VA Form 21–0972).

OMB Control Number: 2900–0849.

Type of Review: Extension of a currently approved collection.

Abstract: The VA Form 21–0972 is used to collect the alternate signer information necessary for VA to accept benefit application forms signed by the individuals on behalf of veterans and claimants. The information collected will be used to contact the alternate signer for verification purposes.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 84 FR 118, on June 19, 2019, page 28627.

Affected Public: Individuals and households.

Estimated Annual Burden: 1,250.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 5,000.

By direction of the Secretary.

Danny S. Green,

VA Interim Clearance Officer, Office of Quality, Performance and Risk Department of Veterans Affairs.

[FR Doc. 2019–21703 Filed 10–4–19; 8:45 am]

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