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# Rules and Regulations

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

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

## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 121

**RIN 3245–AH17**

## Small Business Size Standards: Adjustment of Monetary-Based Size Standards for Inflation; Correction

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Correcting amendments.

**SUMMARY:** The U.S. Small Business Administration (SBA) is correcting an interim final rule that appeared in the **Federal Register** on July 18, 2019. The rule adjusted the monetary-based industry size standards (*i.e.,* receipts- and assets-based) for inflation that occurred since the last adjustment in 2014. SBA is correcting a reference in the table titled ''Small Business Size Standards by NAICS Industry'' that incorrectly identifies the North American Industry Classification System (NAICS) code for the Dredging and Surface Cleanup Activities exception as ''237900'' instead of ''237990.''

**DATES:** Effective on November 20, 2019.

**FOR FURTHER INFORMATION CONTACT:** Khem Sharma, Chief, Office of Size Standards, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** On July 18, 2019, SBA published an interim final rule adjusting the receipts-based industry size standards for inflation for 518 industries and 9 subindustries or exceptions, as well as assets-based size standards for 5 industries (84 FR 34261). The rule became effective on August 19, 2019. As part of the rule, SBA increased the size standard for the Dredging and Surface Cleanup Activities (Dredging), which is an ''exception'' to NAICS code 237990 (Other Heavy and Civil Engineering Construction), from $27.5 million to $30.0 million in annual average receipts. However, in the SBA's interim rule, the NAICS code for the Dredging exception was incorrectly referenced as ''237900'' instead of ''237990.'' This action corrects that error by changing the NAICS code for the Dredging exception to ''237990.'' However, it does not affect the industry description or size standard for NAICS code 237990, including the Dredging exception.

**List of Subjects in 13 CFR Part 121**

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Individuals with disabilities, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

Accordingly, 13 CFR part 121 is corrected by making the following correcting amendments:

## PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority citation for part 121 continues to read as follows:

**Authority:** 15 U.S.C. 632, 634(b)(6), 662, and 694a(9).

■ 2. In § 121.201, amend the table by removing the entry ''237900 (Exception)'' and adding the entry ''237990 (Exception)'' in its place to read as follows:

**§ 121.201 What size standards has SBA identified by North American Industry Classification System codes?**

* * * * *

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY

| NAICS codes | NAICS U.S. industry title | Size standards in millions of dollars | Size standards in number of employees |
|---|---|---|---|
| * | * * * * * | * | * |
| 237990 (Exception) .... | Dredging and Surface Cleanup Activities[2] ..... | $30.0[2] ..... | ..... |
| * | * * * * * | * | * |

**Footnotes**

* * * * *

2. *NAICS code 237990*—Dredging: To be considered small for purposes of Government procurement, a firm must perform at least 40 percent of the volume dredged with its own equipment or equipment owned by another small dredging concern.

* * * * *

Dated: November 13, 2019.

**Robb N. Wong,**

*Associate Administrator, Office of Government Contracting and Business Development.*

[FR Doc. 2019–25081 Filed 11–19–19; 8:45 am]

BILLING CODE P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

**[Docket No. FAA–2018–0221; Airspace Docket No. 17–ANM–24]**

**RIN 2120–AA66**

## Amendment, Revocation, and Establishment of Air Traffic Service (ATS) Routes; Western United States

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

**ACTION:** Final rule.

**SUMMARY:** This action modifies three United States Area Navigation (RNAV) routes (T–274, T–276, and T–302), removes one RNAV route (T–304), and establishes five RNAV routes (T–268, T–317, T–328, T–332, and T–355) in the western United States. These amendments promote operational efficiencies for users and provide connectivity to current and proposed RNAV enroute and terminal procedures.

**DATES:** Effective date 0901 UTC, January 30, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

**FOR FURTHER INFORMATION CONTACT:** Kenneth Ready, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

**SUPPLEMENTARY INFORMATION:**

### Authority for This Rulemaking

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

### History

On April 26, 2018, The FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** for Docket No. FAA–2018–0221 (83 FR 18237; April 26, 2018), to amend three United States Area Navigation (RNAV) routes (T–274, T–276, and T–302), remove one RNAV route (T–304), and establish five RNAV routes (T–268, T–317, T–328, T–332, and T–355) in the western United States. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

United States Area Navigation Routes are published in paragraph 6011, of FAA Order 7400.11D dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The RNAV route listed in this document will be subsequently published in the Order.

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

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

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

### Differences From the NPRM

Subsequent to publication of the NPRM, the FAA identified an error in criteria for points along a route. Typically, a legal description for an airway does not require all points along a route if in a straight line. Each route in this rule has added points along the route, which are operational advantages for air traffic control procedures that were not identified in the NPRM legal descriptions. The error identified stipulated a point must be on the route when the point has a one-degree or greater turn. The added points do not change the direction of the flight, does not add length to any of the routes, and does not change the start or stop points of any of the routes. For these reasons the FAA in amending the legal descriptions in the best interest of the flying public.

### The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by amending RNAV routes T–274, T–276, and T–302; removing RNAV route T–304, and establishing RNAV routes T–268, T–317, T–328, T–332, and T–355. The route changes are outlined below.

*T–268:* T–268 is established from the Tatoosh, WA (TOU), VORTAC to the Bismarck, ND (BIS), VOR/DME. T–268 provides a route structure around Seattle Class B airspace to the northwest extending east, providing the lowest minimum enroute altitude (MEA) across the Cascade Mountain Range, lower than existing victor airways where icing conditions are prevalent. The airway extends east through air traffic control terminal airspace areas, borders the Powder River Military Operations Areas (MOAs) to the north, and terminates in North Dakota.

*T–274:* T–274 is amended to provide a route across the Cascade Mountain Range in central Oregon. Once east of the mountain range, it provides a RNAV route between and past several MOAs, past Reno, Nevada and terminating just prior to Los Angeles, CA Air Route Traffic Control Center (ARTCC) airspace.

*T–276:* T–276 is amended to extend west to Ocean Shores, WA and to the east, providing a route through the Columbia Gorge, bordering the Boardman MOA to the north. The route continues east past Walla Walla, WA, Missoula, MT, Great Falls, MT, and Lewistown, MT, bordering the HAYS MOA to the east, and terminated at Glasgow, MT.

*T–302:* T–302 is amended to extend to the southeast providing a RNAV route bordering the JUNIPER and SADDLE MOAs. The route continues past Boise, ID, and Twin Falls, ID, then southeast to Rock Springs, WY. From Rock Springs, the route continues east, terminating at LLUKY waypoint south of LAKEANDES MOA in Nebraska. This route provides connectivity to terminal instrument approach procedures at several airports.

*T–304:* T–304 is removed. This amendment corrects the numbering of the route and is in line with current policy.

*T–317:* T–317 is established from the Newman, TX (EWM), VORTAC to the Astoria, OR (AST), VOR/DME. T–317 provides an RNAV route replacing portions of V–187, which was affected by the discontinuance of the McChord VORTAC.

*T–328:* T–328 is established from the ORCUS, WA, fix to the KARSH, MT, fix. T–328 is a new airway that provides a route across the Cascade Mountain Range in northern Washington State where no low altitude airways exist today. This route borders the Okanogan MOA to the south, providing a safe route around the airspace. The route borders the Spokane, WA, terminal airspace and connects with instrument approach procedures, and provids a seamless transition from enroute to the landing phase of flight.

*T–332:* T–332 is established from the ZONUV, WA, waypoint (WP) to the ROZTY, WA, WP. T–332 is a new route across the Cascade Mountain Range in northern Washington State. This route is a shorter route through the Okanogan MOA, to be used when released for joint use. This route provides an MEA of 10,700 feet, which is 1,000 feet lower than another route to the south. This route saves over 60 flying miles to get to a low MEA across the mountain range where icing conditions are prevalent.

*T–355:* T–355 is established to extend south and north of the previous airway T–304, thus replacing the original west to east T–304 airway. T–355 extends north and south of the original T–304 route to provide greater utility for air traffic. The route provides crossings of the Cascade Mountain Range and provides for connectivity to terminal areas in the Bend, OR and Medford, OR airports. On the south end, the route links to the existing T–263. To the north, the airway provides a route west of Seattle Class B airspace to Bellingham, WA, and the Canadian border.

**Regulatory Notices and Analyses**

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

**Environmental Review**

The FAA has determined that this action of modifying three RNAV routes (T–274, T–276, and T–302), removing one RNAV route (T–304), and establishing five RNAV routes (T–268, T–317, T–328, T–332, and T–355 in the western United States qualifies for categorical exclusion under the National Environmental Policy Act and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, with categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to cause any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in with a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Amendment**

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

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

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

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

**§ 71.1 [Amended]**

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

*Paragraph 6011 United States Area Navigation Routes*

**T–268 TATOOSH, WA (TOU) to BISMARCK, ND (BIS) [New]**

| | | |
|---|---|---|
| TATOOSH, WA (TOU) | VORTAC | (Lat. 48°17′59.64″ N, long. 124°37′37.36″ W) |
| HEMER, WA | WP | (Lat. 48°21′52.95″ N, long. 124°23′26.86″ W) |
| YUCSU, WA | FIX | (Lat. 48°11′20.81″ N, long. 123°54′25.64″ W) |
| NOOEL, WA | WP | (Lat. 48°10′16.13″ N, long. 123°41′14.23″ W) |
| WATTR, WA | FIX | (Lat. 48°08′21.35″ N, long. 122°56′27.97″ W) |
| LEION, WA | WP | (Lat. 48°05′00.56″ N, long. 122°39′40.75″ W) |
| AYURU, WA | FIX | (Lat. 47°55′22.67″ N, long. 122°16′46.30″ W) |
| WOODI, WA | FIX | (Lat. 47°46′07.46″ N, long. 121°51′47.70″ W) |
| BANDR, WA | FIX | (Lat. 47°15′30.14″ N, long. 121°29′32.11″ W) |
| TMBOB, WA | WP | (Lat. 47°10′32.96″ N, long. 120°56′12.17″ W) |
| MERFF, WA | WP | (Lat. 47°02′12.58″ N, long. 120°27′28.25″ W) |
| MOSES LAKE, WA (MWH) | VOR/DME | (Lat. 47°12′39.11″ N, long. 119°19′00.54″ W) |
| SPOKANE, WA (GEG) | VORTAC | (Lat. 47°33′53.80″ N, long. 117°37′36.79″ W) |
| MULLAN PASS, ID (MLP) | VOR/DME | (Lat. 47°27′24.85″ N, long. 115°38′45.76″ W) |
| MISSOULA, MT (MSO) | VOR/DME | (Lat. 46°54′28.68″ N, long. 114°05′01.15″ W) |
| HELENA, MT (HLN) | VORTAC | (Lat. 46°36′24.56″ N, long. 111°57′12.51″ W) |
| CONNS, MT | FIX | (Lat. 46°16′06.81″ N, long. 111°04′55.70″ W) |
| NUKUW, MT | FIX | (Lat. 46°04′09.77″ N, long. 110°51′18.39″ W) |
| SUBKY, MT | FIX | (Lat. 45°44′00.60″ N, long. 109°57′37.27″ W) |
| BILLINGS, MT (BIL) | VORTAC | (Lat. 45°48′30.81″ N, long. 108°37′28.73″ W) |
| MILES CITY, MT (MLS) | VOR/DME | (Lat. 46°22′56.02″ N, long. 105°57′12.72″ W) |
| DICKINSON, ND (DIK) | VORTAC | (Lat. 46°51′36.14″ N, long. 102°46′24.60″ W) |
| BISMARCK, ND (BIS) | VOR/DME | (Lat. 46°45′42.34″ N, long. 100°39′55.47″ W) |

* * * * * * *

**T–274 NEWPORT, OR (ONP) to LIDAT, NV [Amended]**

| | | |
|---|---|---|
| NEWPORT, OR (ONP) | VORTAC | (Lat. 44°34′31.26″ N, long. 124°03′38.14″ W) |
| WESHH, OR | WP | (Lat. 44°38′50.00″ N, long. 123°35′32.35″ W) |
| CRAAF, OR | FIX | (Lat. 44°45′37.17″ N, long. 123°21′05.90″ W) |
| JAIME, OR | FIX | (Lat. 44°25′07.17″ N, long. 122°36′28.01″ W) |
| DBLEY, OR | WP | (Lat. 44°24′11.24″ N, long. 122°08′58.46″ W) |
| MMDSN, OR | WP | (Lat. 44°23′45.14″ N, long. 121°35′45.92″ W) |
| MMASN, OR | WP | (Lat. 44°21′15.22″ N, long. 121°15′36.06″ W) |
| POCIT, OR | FIX | (Lat. 43°41′57.75″ N, long. 121°02′52.24″ W) |
| FASAB, OR | WP | (Lat. 42°23′22.00″ N, long. 120°23′51.65″ W) |
| NUSME, CA | WP | (Lat. 41°53′43.18″ N, long. 120°20′35.71″ W) |
| RUFUS, CA | WP | (Lat. 41°26′00.00″ N, long. 120°00′00.00″ W) |
| SEDTO, NV | FIX | (Lat. 40°07′28.37″ N, long. 119°49′13.32″ W) |
| MUSTANG, NV (FMG) | VORTAC | (Lat. 39°31′52.60″ N, long. 119°39′21.87″ W) |
| COALDALE, NV (OAL) | VORTAC | (Lat. 38°00′11.74″ N, long. 117°46′13.61″ W) |
| LIDAT, NV | FIX | (Lat. 37°25′48.67″ N, long. 117°16′41.00″ W) |

* * * * * * *

**T–276 WAVLU, WA to GLASGOW, MT (GGW) [Amended]**

| | | |
|---|---|---|
| WAVLU, WA | FIX | (Lat. 46°50′00.90″ N, long. 124°06′35.70″ W) |
| WINLO, WA | FIX | (Lat. 46°27′27.26″ N, long. 123°06′03.90″ W) |
| COUGA, WA | FIX | (Lat. 46°05′31.23″ N, long. 122°40′38.59″ W) |
| CARBY, WA | FIX | (Lat. 45°44′05.96″ N, long. 121°55′31.67″ W) |
| VECCU, WA | FIX | (Lat. 45°40′53.27″ N, long. 120°52′00.64″ W) |
| HUNGR, WA | WP | (Lat. 45°50′50.07″ N, long. 120°12′03.64″ W) |
| LAYTN, WA | WP | (Lat. 45°58′15.09″ N, long. 119°33′18.42″ W) |
| WALLA WALLA, WA (ALW) | VOR/DME | (Lat. 46°05′13.11″ N, long. 118°17′33.13″ W) |
| RENGO, WA | FIX | (Lat. 46°20′08.16″ N, long. 117°50′42.07″ W) |
| POTOR, WA | FIX | (Lat. 46°21′45.19″ N, long. 117°17′41.37″ W) |
| CUPEV, ID | FIX | (Lat. 46°21′10.44″ N, long. 116°50′03.42″ W) |
| HENVO, ID | WP | (Lat. 46°19′48.06″ N, long. 116°37′33.04″ W) |
| OFINO, ID | FIX | (Lat. 46°31′19.36″ N, long. 116°09′54.90″ W) |
| FRYMN, MT | FIX | (Lat. 47°17′32.40″ N, long. 111°38′36.84″ W) |
| YOGOS, MT | FIX | (Lat. 47°19′30.51″ N, long. 110°49′37.75″ W) |
| EVBUJ, MT | WP | (Lat. 47°03′09.79″ N, long. 109°44′19.14″ W) |
| ITEVE, MT | WP | (Lat. 47°02′12.69″ N, long. 109°10′20.79″ W) |
| WUDEY, MT | WP | (Lat. 47°20′13.56″ N, long. 106°56′58.95″ W) |
| GLASGOW, MT (GGW) | VOR/DME | (Lat. 48°12′55.10″ N, long. 106°37′31.51″ W) |

* * * * * * *

**T–302 CUKIS, OR to LLUKY, NE [Amended]**

| | | |
|---|---|---|
| CUKIS, OR | WP | (Lat. 45°20′59.59″ N, long. 122°21′49.41″ W) |
| JJETT, OR | WP | (Lat. 44°56′35.43″ N, long. 121°40′56.36″ W) |
| CUPRI, OR | FIX | (Lat. 44°37′03.76″ N, long. 121°15′13.89″ W) |
| ZUDMI, OR | WP | (Lat. 44°19′59.29″ N, long. 120°28′10.92″ W) |
| WILDHORSE, OR (ILR) | VOR/DME | (Lat. 43°35′35.27″ N, long. 118°57′18.18″ W) |
| JOSTN, OR | WP | (Lat. 43°34′16.92″ N, long. 117°53′51.34″ W) |
| UKAYI, ID | WP | (Lat. 43°46′57.60″ N, long. 117°05′24.14″ W) |
| PARMO, ID | FIX | (Lat. 43°45′32.78″ N, long. 116°49′10.43″ W) |
| ADEXE, ID | WP | (Lat. 43°30′16.79″ N, long. 116°26′53.72″ W) |
| FEVDO, ID | WP | (Lat. 42°53′48.88″ N, long. 115°02′00.30″ W) |
| TOXEE, ID | FIX | (Lat. 42°41′41.81″ N, long. 114°27′13.10″ W) |
| JADUP, ID | WP | (Lat. 42°44′32.00″ N, long. 113°42′15.22″ W) |
| MIKAE, WY | WP | (Lat. 42°06′36.88″ N, long. 110°35′59.28″ W) |
| BXTER, WY | WP | (Lat. 41°53′13.97″ N, long. 110°04′52.38″ W) |
| EEBEE, WY | WP | (Lat. 41°44′07.05″ N, long. 109°35′10.21″ W) |
| REGVE, WY | WP | (Lat. 41°38′35.07″ N, long. 109°20′30.96″ W) |
| ROCK SPRINGS, WY (OCS) | VOR/DME | (Lat. 41°35′24.76″ N, long. 109°00′55.18″ W) |
| FIKLA, WY | WP | (Lat. 41°56′20.50″ N, long. 106°57′11.03″ W) |
| MEDICINE BOW, WY (MBW) | VOR/DME | (Lat. 41°50′43.88″ N, long. 106°00′15.42″ W) |
| SCOTTSBLUFF, NE (BFF) | VORTAC | (Lat. 41°53′38.99″ N, long. 103°28′55.31″ W) |
| WAKPA, NE | WP | (Lat. 42°03′21.64″ N, long. 103°04′57.99″ W) |
| ALLIANCE, NE (AIA) | VOR/DME | (Lat. 42°03′20.27″ N, long. 102°48′16.00″ W) |
| MARSS, NE | FIX | (Lat. 42°27′48.92″ N, long. 100°36′15.32″ W) |
| PUKFA, NE | WP | (Lat. 42°22′59.52″ N, long. 099°59′36.42″ W) |
| GIYED, NE | FIX | (Lat. 42°30′22.02″ N, long. 099°08′05.55″ W) |
| LLUKY, NE | WP | (Lat. 42°29′20.26″ N, long. 098°38′11.44″ W) |

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**T–304 GLARA, OR to HERBS, OR [Removed]**

* * * * * * *

**T–317 NEWMAN, TX (EWM) to ASTORIA, OR (AST) [New]**

| | | |
|---|---|---|
| NEWMAN, TX (EWM) | VORTAC | (Lat. 31°57′06.28″ N, long. 106°16′20.64″ W) |
| MOLLY, NM | FIX | (Lat. 32°03′47.91″ N, long. 106°43′27.24″ W) |
| Truth or Consequences, NM (TCS) | VORTAC | (Lat. 33°16′57.01″ N, long. 107°16′49.97″ W) |
| SOCORRO, NM (ONM) | VORTAC | (Lat. 34°20′20.04″ N, long. 106°49′13.69″ W) |
| YECUG, NM | WP | (Lat. 34°59′18.02″ N, long. 106°59′58.00″ W) |
| AWASH, NM | FIX | (Lat. 35°16′35.44″ N, long. 106°59′15.33″ W) |
| RATTLESNAKE, NM (RSK) | VORTAC | (Lat. 36°44′54.21″ N, long. 108°05′56.04″ W) |
| GRAND JUNCTION, CO (JNC) | VOR/DME | (Lat. 39°03′34.44″ N, long. 108°47′33.27″ W) |

| | | |
|---|---|---|
| ROCK SPRINGS, WY (OCS) | VOR/DME | (Lat. 41°35′24.76″ N, long. 109°00′55.18″ W) |
| SWEAT, WY | FIX | (Lat. 42°26′35.02″ N, long. 108°27′10.31″ W) |
| RIVERTON, WY (RIW) | VOR/DME | (Lat. 43°03′56.63″ N, long. 108°27′19.92″ W) |
| FETIK, WY | FIX | (Lat. 43°17′24.59″ N, long. 108°22′03.98″ W) |
| CRANY, WY | FIX | (Lat. 44°15′45.64″ N, long. 108°24′27.47″ W) |
| BILLINGS, MT (BIL) | VORTAC | (Lat. 45°48′30.81″ N, long. 108°37′28.73″ W) |
| TASSE, MT | FIX | (Lat. 46°03′57.65″ N, long. 108°58′12.87″ W) |
| JUGAP, MT | FIX | (Lat. 46°38′42.20″ N, long. 109°45′53.32″ W) |
| ZERZO, MT | FIX | (Lat. 46°52′25.99″ N, long. 110°05′08.51″ W) |
| AUBBY, MT | WP | (Lat. 47°18′52.66″ N, long. 111°05′42.95″ W) |
| GREAT FALLS, MT (GTF) | VORTAC | (Lat. 47°26′59.93″ N, long. 111°24′43.79″ W) |
| MISSOULA, MT (MSO) | VOR/DME | (Lat. 46°54′28.68″ N, long. 114°05′01.15″ W) |
| NEZ PERCE, ID (MQG) | VOR/DME | (Lat. 46°22′53.61″ N, long. 116°52′10.24″ W) |
| PASCO, WA (PSC) | VOR/DME | (Lat. 46°16′12.96″ N, long. 119°07′02.27″ W) |
| FEBUS, WA | FIX | (Lat. 46°53′58.90″ N, long. 119°52′13.74″ W) |
| MERFF, WA | WP | (Lat. 47°02′12.58″ N, long. 120°27′28.25″ W) |
| WUSVI, WA | WP | (Lat. 47°02′51.47″ N, long. 120°58′08.35″ W) |
| RADDY, WA | FIX | (Lat. 47°04′28.09″ N, long. 121°30′58.25″ W) |
| MOUNT, WA | FIX | (Lat. 47°06′19.17″ N, long. 121°54′17.49″ W) |
| COFAY, WA | WP | (Lat. 47°04′43.83″ N, long. 122°30′01.57″ W) |
| FESAS, WA | WP | (Lat. 47°05′13.84″ N, long. 122°44′00.62″ W) |
| OZEYO, WA | FIX | (Lat. 46°46′36.50″ N, long. 123°08′27.05″ W) |
| ASTORIA, OR (AST) | VOR/DME | (Lat. 46°09′42.11″ N, long. 123°52′49.36″ W) |

* * * * * * *

**T–328 ORCUS, WA to KARSH, MT [New]**

| | | |
|---|---|---|
| ORCUS, WA | FIX | (Lat. 48°20′39.54″ N, long. 123°07′44.01″ W) |
| BOCAT, WA | FIX | (Lat. 48°20′32.01″ N, long. 122°09′44.74″ W) |
| CREEB, WA | FIX | (Lat. 48°13′00.00″ N, long. 121°20′24.00″ W) |
| ROZSE, WA | WP | (Lat. 48°13′22.57″ N, long. 121°01′45.71″ W) |
| KRUZR, WA | FIX | (Lat. 48°04′38.90″ N, long. 120°34′40.72″ W) |
| KLSEY, WA | WP | (Lat. 48°00′48.36″ N, long. 119°33′35.71″ W) |
| SINGG, WA | WP | (Lat. 47°59′30.00″ N, long. 119°00′00.00″ W) |
| ROZTY, WA | WP | (Lat. 48°03′46.12″ N, long. 117°56′38.05″ W) |
| PRRKS, WA | WP | (Lat. 48°08′48.19″ N, long. 117°31′08.00″ W) |
| DAINA, WA | WP | (Lat. 48°08′43.44″ N, long. 117°07′27.78″ W) |
| INOBE, ID | FIX | (Lat. 48°04′54.58″ N, long. 116°45′47.03″ W) |
| RNDDY, ID | WP | (Lat. 48°09′16.26″ N, long. 116°15′12.45″ W) |
| KAPPN, MT | WP | (Lat. 48°09′23.04″ N, long. 115°28′13.84″ W) |
| KARSH, MT | WP | (Lat. 48°08′52.72″ N, long. 115°07′55.44″ W) |

* * * * * * *

**T–332 ZONUV, WA to ROZTY, WA [New]**

| | | |
|---|---|---|
| ZONUV, WA | WP | (Lat. 48°34′10.29″ N, long. 122°44′14.63″ W) |
| CRNEL, WA | WP | (Lat. 48°28′19.45″ N, long. 122°13′20.64″ W) |
| AALIX, WA | WP | (Lat. 48°30′15.89″ N, long. 121°45′22.85″ W) |
| BAALE, WA | WP | (Lat. 48°26′42.58″ N, long. 121°24′56.40″ W) |
| SNNDY, WA | WP | (Lat. 48°22′51.69″ N, long. 121°12′38.31″ W) |
| METOO, WA | WP | (Lat. 48°22′59.81″ N, long. 120°07′42.05″ W) |
| ROZTY, WA | WP | (Lat. 48°03′46.12″ N, long. 117°56′38.05″ W) |

* * * * * * *

**T–355 FOLDS, CA to SECOG, WA [New]**

| | | |
|---|---|---|
| FOLDS, CA | FIX | (Lat. 40°44′16.56″ N, long. 122°30′10.69″ W) |
| GRENA, CA | FIX | (Lat. 41°43′31.31″ N, long. 122°29′09.72″ W) |
| ROMAE, CA | FIX | (Lat. 41°56′06.70″ N, long. 122°42′00.90″ W) |
| TALEM, OR | FIX | (Lat. 42°08′49.70″ N, long. 122°52′41.50″ W) |
| SAMIE, OR | FIX | (Lat. 42°38′46.29″ N, long. 123°00′57.97″ W) |
| BROKN, OR | FIX | (Lat. 42°45′37.47″ N, long. 122°57′53.29″ W) |
| KINZY, OR | WP | (Lat. 43°14′30.62″ N, long. 122°19′37.46″ W) |
| SSTRS, OR | WP | (Lat. 43°40′36.47″ N, long. 121°34′47.27″ W) |
| OCTAD, OR | FIX | (Lat. 44°00′19.92″ N, long. 121°21′18.11″ W) |
| HERBS, OR | FIX | (Lat. 44°25′07.23″ N, long. 121°16′51.75″ W) |
| JJETT, OR | WP | (Lat. 44°56′35.43″ N, long. 121°40′56.36″ W) |
| GLARA, OR | FIX | (Lat. 45°16′40.41″ N, long. 122°36′11.35″ W) |
| CANBY, OR | FIX | (Lat. 45°18′38.05″ N, long. 122°45′53.61″ W) |
| KKARP, OR | WP | (Lat. 46°07′45.39″ N, long. 123°26′42.06″ W) |
| CETUV, WA | FIX | (Lat. 46°35′59.91″ N, long. 123°21′20.75″ W) |
| ZOLGI, WA | FIX | (Lat. 47°16′22.73″ N, long. 122°56′15.63″ W) |
| WUMOX, WA | FIX | (Lat. 47°35′07.83″ N, long. 122°40′26.84″ W) |
| ZONUV, WA | WP | (Lat. 48°34′10.29″ N, long. 122°44′14.63″ W) |
| UCAKI, WA | WP | (Lat. 48°47′33.45″ N, long. 122°39′48.81″ W) |
| SECOG, WA | FIX | (Lat. 48°59′42.80″ N, long. 122°32′17.97″ W) |

* * * * *

Issued in Washington, DC, on November 13, 2019.

**Rodger A. Dean Jr.,**

*Acting Manager, Rules and Regulations Group.*

[FR Doc. 2019–25047 Filed 11–19–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

### 15 CFR Part 744

**[Docket No. 191115–0082]**

**RIN 0694–AH97**

## Temporary General License: Extension of Validity

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Government has decided to extend through February 16, 2020, the temporary general license to Huawei Technologies Co., Ltd. (Huawei) and one hundred and fourteen of its non-U.S. affiliates on the Entity List. In order to implement this decision, this final rule revises the temporary general license to remove the expiration date of November 18, 2019, and substitute the date of February 16, 2020.

**DATES:** This rule is effective November 18, 2019, through February 16, 2020. The expiration date of the final rule published on May 22, 2019 (84 FR 23468) and the final rule published on August 21, 2019 (84 FR 43487) is extended until February 16, 2020.

**FOR FURTHER INFORMATION CONTACT:** Director, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, Phone: (949) 660–0144 or (408) 998–8806 or email your inquiry to: *ECDOEXS@bis.doc.gov*.

**SUPPLEMENTARY INFORMATION:**

### Background

As published on May 22, 2019 (84 FR 23468) and extended and amended through a final rule published on August 21, 2019 (84 FR 43487), this temporary general license authorizes certain activities, including those necessary for the continued operations of existing networks and equipment as well as the support of existing mobile services, including cybersecurity research critical to maintaining the integrity and reliability of existing and fully operational networks and equipment. Exporters, reexporters, and transferors are required to maintain certifications and other records, to be made available when requested by BIS, regarding their use of the temporary general license.

As published on May 22, 2019 (84 FR 22961), and as revised and clarified by a final rule published on August 21, 2019, (84 FR 43493), any exports, reexports, or in-country transfers of items subject to the EAR to any of the listed Huawei entities as of the effective date they were added to the Entity List continue to require a license, with the exception of transactions explicitly authorized by the temporary general license and eligible for export, reexport, or transfer (in-country) prior to May 16, 2019 without a license or under a license exception. License applications will continue to be reviewed under a presumption of denial, as stated in the Entity List entries for the listed Huawei entities.

No persons are relieved of other obligations under the EAR, including but not limited to licensing requirements to the People's Republic of China (PRC or China) or other destinations and the requirements of part 744 of the EAR. The temporary general license also does not authorize any activities or transactions involving Country Group E countries (*i.e.,* Cuba, Iran, North Korea, Sudan, and Syria) or foreign nationals.

### Extension of Validity

At this time, the U.S. Government has decided to extend the temporary general license until February 16, 2020. In order to implement this U.S. Government decision, this final rule revises the temporary general license to remove the date of November 18, 2019 and substitute the date of February 16, 2020 in the introductory text in paragraph (b)(1) of the temporary general license and in the introductory text of paragraph (c) of Supplement No. 7 to part 744.

### Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (50 U.S.C. 4801–4852). ECRA provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this rule. As set forth in Section 1768 of ECRA, all delegations, rules, regulations, orders, determinations, licenses, or other forms of administrative action that were made, issued, conducted, or allowed to become effective under the Export Administration Act of 1979 (previously, 50 U.S.C. 4601 *et seq.*) (as in effect prior to August 13, 2018 and as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*)) or the Export Administration Regulations, and were in effect as of August 13, 2018, shall continue in effect according to their terms until modified, superseded, set aside, or revoked under the authority of ECRA.

### Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to or be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications, and carries a burden estimate of 42.5 minutes for a manual or electronic submission. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule. You may send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by email to *Jasmeet_K._Seehra@omb.eop.gov,* or by fax to (202) 395–7285.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. Pursuant to section 1762 of ECRA, this action is exempt from the

Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date.

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

**List of Subjects in 15 CFR Part 744**

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730 through 774) is amended as follows:

## PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 is revised to read as follows:

**Authority:** 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of September 19, 2019, 83 FR 49633 (September 20, 2019); Notice of November 12, 2019, 84 FR 61817 (November 13, 2019).

■ 2. Supplement No. 7 to part 744 is amended by revising the first sentence of the introductory text, paragraph (b)(1), and paragraph (c) introductory text to read as follows:

**Supplement No. 7 to Part 744—Temporary General License**

Notwithstanding the requirements and other provisions of Supplement No. 4 to this part, which became effective as to Huawei Technologies Co., Ltd. (Huawei), Shenzhen, Guangdong, China on May 16, 2019, and its non-U.S. affiliates listed in Supplement No. 4 to this part on, as applicable, May 16, 2019 or August 19, 2019, the licensing and other requirements in the EAR as of May 15, 2019, are restored in part as of May 20, 2019, and through February 16, 2020, pertaining to exports, reexports, and transfers (in-country) of items subject to the EAR to any of the listed Huawei entities. * * *

* * * * *

(b) * * *

(1) This temporary general license is effective from May 20, 2019, through February 16, 2020.

* * * * *

(c) *Authorized transactions.* This temporary general license allows, from May 20, 2019, through February 16, 2020, the following:

* * * * *

Dated: November 15, 2019.

**Matthew S. Borman,**

*Deputy Assistant Secretary for Export Administration.*

[FR Doc. 2019–25189 Filed 11–18–19; 11:15 am]

**BILLING CODE 3510–33–P**

## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 943

**[SATS No. TX–068–FOR; Docket ID: OSM–2018–0002; S1D1S SS08011000 SX064A000 201S180110; S2D2S SS08011000 SX064A000 20XS501520]**

## Texas Regulatory Program

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving an amendment to the Texas regulatory program (Texas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Texas proposed revisions to its program regarding annual permit fees for calendar years 2017 and 2018. Texas also proposed to remove a restriction in its rules that conflicts with the United States Bankruptcy Code.

**DATES:** The effective date is December 20, 2019.

**FOR FURTHER INFORMATION CONTACT:** William Joseph, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 1645 South 101st East Avenue, Suite 145, Tulsa, Oklahoma 74128–4629. Telephone: (918) 581–6430. Email: *bjoseph@osmre.gov.*

**SUPPLEMENTARY INFORMATION:**



### I. Background on the Texas Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Texas program effective February 16, 1980. You can find background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Texas program in the February 27, 1980, **Federal Register** (45 FR 12998). You can also find later actions concerning the Texas program and program amendments at 30 CFR 943.10, 943.15 and 943.16.

### II. Submission of the Amendment

By letter dated February 7, 2018 (Administrative Record No. TX–706), Texas sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*) at its own initiative.

We announced receipt of the proposed amendment in the August 29, 2018, **Federal Register** (83 FR 44012). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on September 28, 2018. We received three public comments (Administrative Record No. TX–706–03) that are addressed in the Public Comments section of part IV, Summary and Disposition of Comments, below.

### III. OSMRE's Findings

We are approving the amendment as described below. The following are findings we made concerning Texas's amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. Any revisions that we do not specifically discuss below concerning non-substantive wording or editorial changes can be found in the full text of the program amendment available at *https://www.regulations.gov.*

*A. 16 Texas Administrative Code—Section 12.108. Permit Fees*

Texas proposed revising its regulations at Texas Administrative Code (TAC), Title 16, section 12.108(b), regarding annual permit fees by:

(1) Amending the calendar years specified in paragraph (b) to calendar years 2017 and 2018;

(2) Decreasing the amount of the fee, from $13.05 to $12.85, for each acre of land within a permit area covered by a reclamation bond on December 31 of the year; and

(3) Decreasing the amount of the fee, from $6,600 to $6,170, for each permit in effect on December 31 of the year.

Texas fully funds its share of costs to regulate the coal mining industry with fees paid by the coal industry. To meet these costs, Texas charges a permit application fee and two annual fees, as mentioned above. The proposed fee revisions are intended to provide adequate funding to pay the State's cost of operating its regulatory program while continuing to provide incentives for industry to accomplish reclamation and achieve bond release as quickly as possible.

We find that Texas's proposed fee changes are consistent with the discretionary authority provided by the Federal regulation at 30 CFR 777.17. The Federal regulations allow the regulatory authority to determine the fee for an application for a surface coal mining and reclamation permit as long as the fee does not exceed the actual or anticipated cost of reviewing, administering, and enforcing the permit. Texas has determined that the permit fees assessed do not exceed the actual or anticipated cost of reviewing, administering, and enforcing the permit. This is evident as Texas is requesting a decrease in the fees previously assessed based on an assessment of the cost to review, administer, and enforce Texas permits. Therefore, we are approving Texas's revision as it is no less effective than the Federal regulations.

*B. 16 Texas Administrative Code—Section 12.309. Terms and Conditions of the Bond*

Texas proposed to revise its regulation at Texas Administrative Code (TAC), Title 16, section 12.309(j)(2)(B), by:

(1) Removing the condition that self-bond applicants must not have been subject to bankruptcy proceedings during the 5-year period immediately preceding the date of application.

Texas proposed this revision to conform to the self-bonding regulations at 30 CFR 800.23(b) and the United States Bankruptcy Code protections against discriminatory treatment for debtors at 11 U.S.C. 525(a). The regulations at 30 CFR 800.23(b) have no requirement that the self-bond applicant must not have been subject to a bankruptcy proceeding. This provision was within the approved Texas program and deemed to be more stringent than SMCRA or more effective than the regulations thereunder. However, based upon the provisions of 11 U.S.C. 525, discriminating against a self-bond applicant on the basis of participation in a bankruptcy proceeding is not permissible. Therefore, Texas proposed to remove this requirement from its approved program.

The provisions of proposed 16 TAC section 12.309(j)(2)(B) mirror the provisions of 30 CFR 800.23(b)(2) that require the applicant for a self-bond to have been in continuous operation as a business entity for a period of not less than five years immediately preceding the time of application. The Texas proposed amendment also mirrors the provisions of 30 CFR 800.23(b)(2)(i) that allow a joint venture or syndicate with less than five years of continuous operation to qualify under the requirement of 30 CFR 800.23(b)(2) if each member of the joint venture or syndicate has been in continuous operations for at least five years immediately preceding the time of application. Therefore, the removal of the provision precluding consideration of and reference to bankruptcy provisions renders the Texas regulations consistent with the OSMRE self-bonding regulations at 30 CFR 800.23(b).

Additionally, the proposed amendment is conformity with the broad provisions of the United States Bankruptcy Code section 525(a) that forbid a governmental unit from discriminating against a person that has been a debtor or associated with a debtor. This prohibition extends only to discrimination or other action based solely on the basis of the bankruptcy, on the basis of the insolvency, before or during bankruptcy prior to determination of discharge, or on the basis of nonpayment of a debt discharged in the bankruptcy case. Therefore, we find that Texas's proposed amendment renders its rules or regulations no less effective than the Federal self-bonding regulations found at 30 CFR 800.23(b) and we are approving Texas's revision.

*Effective Date*

The Texas regulatory authority's February 7, 2018, letter suggests that the proposed rule changes were effective November 23, 2015; December 25, 2017; and April 25, 2017. A state program amendment is not effective until approved by OSMRE. 30 CFR 732.17(g); *see also U.S.* v. *E&C Coal Co., Inc.,* 846 F.2d 247, 249 (4th Cir. 1988). The approved amendments will become effective on the date specified in this document.

## IV. Summary and Disposition of Comments

*Public Comments*

We asked for public comments on the amendment. As noted in Section II, we received three comments (Administrative Record No. TX–706–03). The comments related to the Security Exchange commission, global warming, and radioactive free steel. The three comments were outside the scope of the proposed amendment and not germane to the topic of surface coal mining in general. We are not addressing these comments in this final rule for these reasons. These comments are available in their entirety at *https://www.regulations.gov.*

*Federal Agency Comments*

On March 21, 2018, pursuant to 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Texas program (Administrative Record No. TX–706–02). We did not receive any comments.

*Environmental Protection Agency (EPA) Concurrence and Comments*

Under 30 CFR 732.17(h)(11)(ii), we are required to receive a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Texas proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment. However, on March 21, 2018, under 30 CFR 732.17(h)(11)(i), we requested comments from the EPA on the amendment (Administrative Record No. TX–706–02). The EPA provided no comments and did not respond to our request.

*State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)*

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On March 21, 2018, we requested comments on the amendment (Administrative Record No. TX–706–02). We did not receive any comments.

## V. OSMRE's Decision

Based on the above finding, we are approving the Texas amendment that

was submitted on February 7, 2018 (Administrative Record No. TX–706).

To implement this decision, we are amending the Federal regulations at 30 CFR part 943 that codify decisions concerning the Texas program. In accordance with the Administrative Procedure Act (5 U.S.C. 553), this rule will take effect 30 days after the date of publication. Section 503(a) of SMCRA (30 U.S.C. 1253(a)) requires that the State's program must demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. SMCRA requires consistency of State and Federal standards.

## VI. Statutory and Executive Order Reviews

*Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights*

This rule would not effect a taking of private property or otherwise have taking implications that would result in public property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of the corresponding Federal regulations.

*Executive Order 12866—Regulatory Planning and Review and 13563—Improving Regulation 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 program amendments is exempted from OMB review under Executive Order 12866. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

*Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs*

State program amendments are not regulatory actions under Executive Order 13771 because they are exempt from review under Executive Order 12866.

*Executive Order 12988—Civil Justice Reform*

The Department of the Interior has reviewed this rule as required by Section 3 of Executive Order 12988. The Department has determined that this **Federal Register** document meets the criteria of Section 3 of Executive Order 12988, which is intended to ensure that the agency reviews its legislation and regulations to eliminate drafting errors and ambiguity; that the agency write its legislation and regulations to minimize litigation; and that the agency's legislation and regulations provide a clear legal standard for affected conduct, rather than a general standard, and promote simplification and burden reduction. Because Section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive Order to the quality of this **Federal Register** document and to changes to the Federal regulations. The review under this Executive Order did not extend to the language of the State regulatory program or to the program amendment that the State of Texas drafted.

*Executive Order 13132—Federalism*

This rule is not a ''[p]olicy that [has] Federalism implications'' as defined by Section 1(a) of Executive Order 13132 because it 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.'' Instead, this rule approves an amendment to the Texas program submitted and drafted by that State. OSMRE reviewed the submission with fundamental federalism principles in mind as set forth in Section 2 and 3 of the Executive Order and with the principles of cooperative federalism as set forth in SMCRA. *See, e.g.,* 30 U.S.C. 1201(f). As such, pursuant to section 503(a)(1) and (7) (30 U.S.C. 1253(a)(1) and (7)), OSMRE reviewed the program amendment to ensure that it is ''in accordance with'' the requirements of SMCRA and ''consistent with'' the regulations issued by the Secretary pursuant to SMCRA.

*Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175, and have determined that it has no substantial direct effects on federally recognized Tribes or on the distribution of power and responsibilities between the Federal government and Tribes. Therefore, consultation under the Department's tribal consultation policy is not required. The basis for this determination is that our decision is on the Texas program that does not include Tribal lands or regulation of activities on Tribal lands. Tribal lands are regulated independently under the applicable, approved Federal program.

*Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not a significant energy action under the definition in Executive Order 13211, a Statement of Energy Effects is not required.

*Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks*

This rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866; and this action does not address environmental health or safety risks disproportionately affecting children.

*National Environmental Policy Act*

Consistent with sections 501(a) and 702(d) of SMCRA (30 U.S.C. 1251(a) and 1292(d), respectively) and the U.S. Department of the Interior Departmental Manual, part 516, section 13.5(A), State program amendments are not major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C).

*National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act (15 U.S.C. 3701 *et seq.*) directs OSMRE to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. (OMB Circular A–119 at p. 14). This action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with SMCRA.

*Paperwork Reduction Act*

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain

information and report it to a Federal agency. As this rule does not contain information collection requirements, a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

*Regulatory Flexibility Act*

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Texas submittal, which is the subject of this rule, is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

*Unfunded Mandates Reform Act*

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

**List of Subjects in 30 CFR Part 943**

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 9, 2019.

**Alfred L. Clayborne,**

*Regional Director, Mid-Continent Region.*

For the reasons set out in the preamble, 30 CFR part 943 is amended as set forth below:

## PART 943—TEXAS

■ 1. The authority citation for part 943 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

■ 2. Section 943.15 is amended in the table by adding an entry for ''16 Texas Administrative Code—Section 12.108, related to permit fees; and Section 12.309, related to self-bonding applications'' in chronological order by ''Date of final publication'' to read as follows:

**§ 943.15 Approval of Texas regulatory program amendments.**

* * * * *

| Original amendment submission date | Date of final publication | Citation/description |
|---|---|---|
| * * | * | * * * * |
| February 7, 2018 | 11/20/2019 | 16 Texas Administrative Code—Section 12.108, related to permit fees; and Section 12.309, related to self-bonding applications. |

[FR Doc. 2019–25186 Filed 11–19–19; 8:45 am]

**BILLING CODE 4310–05–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### 32 CFR Part 324

**[Docket ID: DOD–2019–OS–0054]**

**RIN 0790–AK70**

## DFAS Privacy Act Program

**AGENCY:** Defense Finance and Accounting Service, DoD.

**ACTION:** Final rule.

**SUMMARY:** This final rule removes DoD's regulation concerning the Defense Finance and Accounting Service Privacy Program. On April 11, 2019, the Department of Defense published a revised DoD-level Privacy Program rule, which contains the necessary information for an agency-wide privacy program regulation under the Privacy Act and now serves as the single Privacy Program rule for the Department. That revised Privacy Program rule also includes all DoD component exemption rules. Therefore, the part concerning the Defense Finance and Accounting Service Privacy Program is now unnecessary and may be removed from the CFR.

**DATES:** This rule is effective on November 20, 2019.

**FOR FURTHER INFORMATION CONTACT:** Gregory Outlaw at 317–212–4591.

**SUPPLEMENTARY INFORMATION:** DoD now has a single DoD-level Privacy Program rule at 32 CFR part 310 (84 FR 14728) that contains all the codified information required for the Department. The DFAS Privacy Act Program regulation at 32 CFR part 324, last updated on May 22, 1996 (61 FR 25561), is no longer required and can be removed.

It has been determined that publication of this CFR part removal for public comment is impracticable, unnecessary, and contrary to public interest since it is based on the removal of policies and procedures that are now reflected in another CFR part, 32 CFR part 310.

This rule is one of 20 separate component Privacy rules. With the finalization of the DoD-level Privacy rule at 32 CFR part 310, the Department eliminated the need for this component Privacy rule, thereby reducing costs to the public as explained in the preamble of the DoD-level Privacy rule published on April 11, 2019, at 84 FR 14728–14811.

This rule is not significant under Executive Order (E.O.) 12866, ''Regulatory Planning and Review.'' Therefore, E.O. 13771, ''Reducing Regulation and Controlling Regulatory Costs'' does not apply.

**List of Subjects in 32 CFR Part 324**

Privacy.

## PART 324—[REMOVED]

Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 324 is removed.

Dated: November 14, 2019.

**Shelly E. Finke,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2019–25079 Filed 11–19–19; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Parts 300 and 679

**[Docket No. 191114–0081]**

**RIN 0648–BH94**

## Pacific Halibut Fisheries; Revisions To Catch Sharing Plan and Domestic Management Measures in Alaska

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

**ACTION:** Final rule.

**SUMMARY:** This final rule implements regulations that require Charter Halibut Permits (CHPs) to be registered annually with NMFS before use. In 2010, NMFS implemented the Charter Halibut Limited Access Program that issued a limited number of CHPs to persons who operate in the guided sport (charter) halibut fishery on the waters of International Pacific Halibut Commission Regulatory Areas 2C and 3A. The annual registration of CHPs is intended to improve the enforcement of CHP transfer limitations and ownership caps, as well as provide additional information to NMFS and the North Pacific Fishery Management Council on any changes in CHP ownership, leasing, and participation.

**DATES:** Effective December 20, 2019.

**ADDRESSES:** Electronic copies of the Categorical Exclusion and the Regulatory Impact Review (RIR) prepared for this action are available from *http://www.regulations.gov* or from the NMFS Alaska Region website at *https://www.fisheries.noaa.gov/region/alaska*. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted by mail to NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Glenn Merrill; in person at NMFS Alaska Region, 709 West 9th Street, Room 401, Juneau, AK; by email to *OIRA_Submission@omb.eop.gov*; or by fax to 202–395–5806.

**FOR FURTHER INFORMATION CONTACT:** Doug Duncan, 907–586–7228.

**SUPPLEMENTARY INFORMATION:**

### Authority for Action

The International Pacific Halibut Commission (IPHC) and NMFS manage fishing for Pacific halibut (*Hippoglossus stenolepis*) through regulations established under authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). The IPHC adopts regulations governing the Pacific halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979). For the United States, regulations developed by the IPHC are subject to acceptance by the Secretary of State with concurrence from the Secretary of Commerce. After acceptance by the Secretary of State and the Secretary of Commerce, NMFS publishes the IPHC regulations in the **Federal Register** as annual management measures pursuant to 50 CFR 300.62.

The Halibut Act, at sections 773c(a) and (b), provides the Secretary of Commerce with general responsibility to carry out the Convention and the Halibut Act. In adopting regulations that may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act, the Secretary of Commerce is directed to consult with the Secretary of the department in which the U.S. Coast Guard is operating, currently the Department of Homeland Security.

The Halibut Act, at section 773c(c), also provides the North Pacific Fishery Management Council (Council) with authority to develop regulations, including limited access regulations, that are in addition to, and not in conflict with, approved IPHC regulations. Regulations developed by the Council may be implemented by NMFS only after approval by the Secretary of Commerce. The Council has exercised this authority in the development of subsistence halibut fishery management measures, the Charter Halibut Limited Access Program (CHLAP), and a catch sharing plan and domestic management measures in waters in and off Alaska, codified at 50 CFR 300.61, 300.65, 300.66, and 300.67. The Council also developed the Individual Fishing Quota (IFQ) Program for the commercial halibut and sablefish fisheries, codified at 50 CFR part 679, under the authority of section 773 of the Halibut Act and section 303(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

### Management of the Halibut Fishery

*Description of the Action Area*

This final rule implements regulations for the management of the guided sport halibut fishery in IPHC Regulatory Areas 2C (Southeast Alaska) and 3A (Southcentral Alaska). This preamble uses the term ''Area 2C'' and ''Area 3A'' to refer to IPHC Regulatory Areas 2C and 3A, respectively.

*Summary Background on Management of the Charter Halibut Fishery*

In addition to this summary, the preamble to the proposed rule for this action (84 FR 38912; August 8, 2019) and Section 3.2 of the RIR provides detail on charter halibut management programs that have been implemented in Areas 2C and 3A.

Guided sport fishing in Areas 2C and 3A is currently managed under the CHLAP, which limits the number of operators in the charter fishery. The CHLAP established Federal charter halibut permits (''CHP'' or ''permit'') for operators in the charter halibut fisheries in Areas 2C and 3A (75 FR 554, January 5, 2010). Since 2011, all vessel operators in Areas 2C and 3A with charter anglers on board must have an original, valid permit on board during every charter vessel fishing trip on which Pacific halibut are caught and retained. CHPs are endorsed for the appropriate regulatory area and the number of charter anglers that may catch and retain halibut on a trip.

NMFS issued both transferable and nontransferable CHPs depending on specific qualifying criteria detailed in the final rule implementing the CHLAP (75 FR 554, January 5, 2010). Transferable CHPs were issued to participants with more extensive participation in the charter halibut fishery during the qualifying period and used to establish a market-based system of access to the halibut charter fishery after the initial allocation of permits.

Nontransferable CHPs were authorized as a means to allow a business with relatively low participation during the qualifying period to continue to operate, while reducing the size of the charter fleet over time. Nontransferable CHPs may not be transferred to another individual or business entity, and the permits are invalidated when a permit holder dies, or the business entity that holds the permit dissolves or adds new owners. 50 CFR 300.67(j) describes CHP limitations, including ownership changes.

Community Charter Halibut Permits (Community CHPs) were also made available to eligible Community Quota Entities, and Military Charter Halibut Permits (Military CHPs) were made available to U.S. Military Morale, Welfare, and Recreation Programs. Community CHPs and Military CHPs are nontransferable and were issued by NMFS in limited quantities not based on historical participation, but to provide economic benefits to small rural communities and allow military service members harvesting opportunity.

*Administration of CHPs*

The CHLAP included ownership gap regulations that generally prohibit a person or entity from holding more than five CHPs to limit potential consolidation in the charter fishery and provide continuing opportunities to access the fishery. Existing businesses that initially qualified for more than five permits were allowed to continue their business at levels above this excessive share standard; however, they are prevented from acquiring more permits than their initial allocation. Permit transfers that result in a person, business, or other entity receiving more than five permits are only approved by NMFS under limited exceptions. This preamble uses the term ''ownership cap'' to describe the limit on the number of CHPs that a person or entity is eligible to hold because this term is commonly used by participants in the charter halibut fishery.

Ownership shares were initially accounted for on the applications for CHPs. If the initial applicant was not a sole individual, then the corporation, partnership, or other business entity that applied was required to submit the names of all the individual owners of the business entity, together with the percent of the business ownership for each individual.

If there is a change in the ownership of either transferable or nontransferable CHPs, NMFS must be notified. For an individual CHP holder, a ''change'' might mean that the person has died, in which case, NMFS must be notified within 30 days of the individual's death (50 CFR 300.67(j)(5)(i)). For corporations, partnerships, or other non-individual entities, a ''change'' occurs when a new partner is added, unless it is a court appointed trustee acting on behalf of an incapacitated partner (50 CFR 679.42(j)(4)(i)). Non-individual entity changes must be registered with NMFS within 15 days of the effective date of the change. Many ownership changes occur when a CHP is transferred; however, other changes occur when a business entity adds partners or shareholders, or an individual dies. Monitoring the ownership structure of CHPs is necessary for NMFS to implement and enforce features of the CHLAP, such as transfer provisions, ownership caps, and the retirement of nontransferable CHPs. See the proposed rule for a more complete history and discussion of the regulations relating to CHPs (84 FR 38912; August 8, 2019).

**Need for This Action**

Currently, CHPs are indefinitely valid for the initial recipient or transferee until the permit is transferred, reissued, or subject to a qualifying change of ownership. If a CHP is not lost, destroyed, transferred, or subject to a reported change in ownership, then permit holder information may fall out of date because there is no regular reporting requirement to NMFS. Both transferable and nontransferable CHPs can also be non-permanently ''transferred'' or ''leased'' to another person to use without record of that transaction being submitted to NMFS.

This final rule addresses the Council's intent to advance several goals under the CHLAP, including: The enforcement of CHP ownership caps and on-the-water enforcement through the annual registration and issuance of valid permits. By annually documenting and updating the ownership structure of active CHPs, this final rule also facilitates the retirement of nontransferable permits, as well as addresses the Council's intent to collect information on leasing of CHPs by identifying whether the CHP holder received financial compensation for leasing their permit(s) in the previous year.

**Provisions of This Final Rule**

This final rule implements an annual registration requirement for CHPs. To be valid, a CHP will need to be registered with NMFS each calendar year before use. This annual registration requirement does not apply to Military CHPs or Community CHPs due to existing reporting requirements, but it does apply to transferrable CHPs held by CQEs, which are separate from their Community CHPs.

The registration process requires submission of a form including the CHP holder name, CHP number, CHP holder address, CHP holder phone number and/or email address, CHP ownership holdings including all partners and corporate entities, anyone affiliated with the CHP holder, and a ''yes'' or ''no'' question that asks whether financial compensation for the use of the CHP was received in the preceding year. The financial compensation question refers to CHP leases or ''leasing-like'' behavior, but does not collect more detailed information on an arrangement other than whether one had occurred.

After approval of a CHP annual registration, NMFS will issue a new version of the original CHP that is valid to the CHP holder. The CHP will have an alphanumeric version code, and the published CHP list will indicate the registration status and, if applicable, the valid version code of each CHP. A CHP that has been successfully registered will be valid until December 31 of the year in which it is registered, unless transferred, replaced, or otherwise superseded by a more recent version of the CHP. Any previous versions of the CHP will not be valid. Consistent with existing regulations at 50 CFR 300.67, a charter vessel guide must have an original valid CHP on board when catching and retaining halibut during a charter vessel fishing trip.

If a CHP holder does not complete the annual registration process they will maintain ownership of the CHP, subject to CHP ownership caps and other CHP limitations. However, the CHP will not be valid for use until it has been successfully registered. The CHP holder or authorized representative can complete the annual registration process at any time, but the original valid CHP that is issued will always expire on December 31 of the calendar year the registration occurred. For example, a CHP registered at any time during 2020 would expire on December 31, 2020.

Under this final rule, transferring a CHP is a separate process from the annual registration of a CHP. A new owner receiving a CHP through permanent transfer will be required to register the CHP before using it, even if the previous holder had registered it within the same calendar year.

This final rule also establishes a standard process in the event a CHP annual registration is denied. A denial may occur due to an incomplete or inaccurate registration application, registration of a non-transferable permit by a non-eligible holder, violation of a CHP ownership cap, or violation of another CHP limitation. If this occurs, NMFS will inform the applicant why the annual registration was denied and begin a 30-day period in which the applicant can correct the application. If NMFS determines that there is still sufficient reason to deny the application after corrections and evidence are received during the 30-day period, an Initial Administrative Determination (IAD) detailing the problems will be issued to the applicant. An applicant that receives an IAD can appeal the

denial to the Office of Administrative Appeals. This is consistent with the process relating to the denial and appeal of other NMFS fishing permits.

Finally, this rule makes a non-substantive update to the appeal process for a CHP application. It revises the outdated reference for the Office of Administrative Appeals in order to bring it up to date with current regulations and practice. This does not change how appeals are currently made or handled.

**Response to Comments**

NMFS received nine comment letters on the proposed rule. NMFS identified and considered ten unique, relevant comments, which are summarized and responded to below. The commenters consisted of individuals, representatives of the charter sector, and representatives of the commercial fishing sector.

*Comment 1:* We support the CHP annual registration requirement because it will allow for more effective enforcement of transfer provisions, ownership caps, non-transferable permit retirement, and provide a more accurate picture of CHP ownership and leasing. We urge the Agency to have the annual registration in effect for the 2020 charter season.

*Response:* NMFS acknowledges this comment. NMFS intends to have this CHP annual registration requirement in place for the 2020 charter fishing season.

*Comment 2:* An additional benefit of an annual registration requirement is that in the event a CHP holder passes away, this requirement will serve as a notification of the existence of the CHP and may prompt a transfer in ownership that could keep the permit active rather than remaining latent and unused.

*Response:* NMFS acknowledges this comment. The CHP annual registration process will indicate whether a CHP has been registered and could provide information to someone with a CHP, or interest in using it, that a transfer and/or annual registration is required for the CHP to be valid and therefore usable.

*Comment 3:* We encourage all steps directed at reforming charter halibut management toward a more stable, transparent environment for invested operators.

*Response:* NMFS acknowledges this comment. The CHP annual registration process will improve transparency by regularly documenting CHP ownership which will help ensure CHP limitations are adhered to. The additional information will also help the Council and NMFS better evaluate if the goals of the CHLAP are being met, or if potential management action is needed to maintain program stability.

*Comment 4:* All legal halibut charter operators have to have a CHP on board when they retain halibut on a charter trip and they are all required to fill out and file Alaska Department of Fish & Game (ADF&G) Logbook Reports for each trip. ADF&G collects and tabulates the CHP catch data weekly and annually, by owner, operator and CHP number. NOAA, NMFS, and Council have access to this same data, making this collection unnecessary.

*Response:* NMFS disagrees. The Alaska Department of Fish & Game Saltwater Charter Logbook contains the CHP number and holder name used for each trip, but it does not contain any additional information about the CHP holder, such as whether the CHP has been leased in the previous year, or information about the ownership and affiliation structure related to the permit. The CHP annual registration requirement is intended to facilitate retirement of non-transferable permits when ownership changes, improve the ability of enforcement agents to ensure valid permits are being used on the water, and improve understanding of temporary leasing behavior.

*Comment 5:* Transferable CHP owners are required to file a 9-page NOAA Application for Transfer of CHP when they permanently transfer their CHP. Therefore, NOAA already gets updated ownership information for CHP holders.

*Response:* NMFS acknowledges that updated CHP holder information is supplied when a CHP is transferred but disagrees that transfers alone are sufficient to provide information for all fishery participants. On average, only about 5% of CHPs are transferred each year which leaves an information gap for the overwhelming majority of CHP holders, particularly as some CHPs may never be transferred (see Section 3.2.4 of the RIR). This action provides regularly updated information, which is not currently collected, from all active CHP holders.

*Comment 6:* CHP holders already have a large list of licenses, permits, registrations, and contracts to complete each year. Adding an annual registration requirement adds additional paperwork burden which is not worth it. If registration must be required, it should only occur every 10 years, at the most frequent.

*Response:* The annual registration requirement is designed to efficiently address the Council's management objectives. The annual registration requirement regularly documents and updates ownership information, facilitates the retirement of nontransferable permits, and identifies whether the CHP holder received financial compensation for leasing their permit(s). Longer registration intervals would allow active CHP information to fall out of date which would fail to meet the Council's management objectives. The burden and costs of compliance to accomplish these objectives will be minimal. Annual registration is expected to take an average of 15 minutes per application and estimated to impose less than $20 in labor costs and other expenses related to submittal. There is no fee from the agency for the annual registration process. Additionally, the CHP holder is not required to submit the CHP annual registration on a specific date, and may submit the annual application shortly before starting charter operations, further reducing the potential burden for applicants.

*Comment 7:* Whether financial compensation was received for use of a CHP should not matter.

*Response:* NMFS disagrees. The Council requested this information to inform potential future management action related to CHP leasing that occurs. Currently, no information about CHP leasing is collected or available. Furthermore, by gathering this information as a simple ''yes'' or ''no'' question, the reporting burden on the CHP holder is minimized.

*Comment 8:* Financial compensation for use of a CHP needs to be defined.

*Response:* NMFS agrees, financial compensation refers to CHP leasing or ''leasing-like'' behavior. Clear instructions are provided on the CHP annual registration form to guide CHP holders in responding to this question.

*Comment 9:* There should not be a fee associated with completing the annual registration form.

*Response:* There is no agency fee charged to complete or submit the CHP annual registration.

*Comment 10:* Please specify who is responsible for completing and submitting the CHP annual registration. What if a CHP is being leased or a lienholder is retaining ownership of the CHP prior to pay off while another person uses it? Would the inactive CHP owner of record, or the active purchaser/user of the CHP, or both, be responsible for registration? Also, leasing should be prohibited for nontransferable CHPs.

*Response:* NMFS acknowledges this comment. The current CHP holder (owner of record) is responsible for annual registration of the CHP. Once the CHP transfer is completed and approved, the new CHP holder will be responsible for completing the annual

registration prior to being issued a valid CHP. Modifications to the CHP transfer process and CHP leasing provisions are not addressed and outside the scope of this rule.

**Changes From Proposed to Final Rule**

The NMFS Alaska Region website address was changed after the proposed rule was submitted for publication; therefore, the regulatory text for this final rule replaces the outdated web address with the current web address, which is *https://www.fisheries.noaa.gov/region/alaska*.

**Classification**

Regulations governing the U.S. fisheries for Pacific halibut are developed by the IPHC, the Pacific Fishery Management Council, the North Pacific Fishery Management Council, and the Secretary of Commerce. Section 5 of the Halibut Act (16 U.S.C. 773c) allows the Regional Council having authority for a particular geographical area to develop regulations governing fishing for halibut in U.S. Convention waters as long as those regulations do not conflict with IPHC regulations. The Halibut Act at section 773c(a) and (b) provides the Secretary of Commerce with the general responsibility to carry out the Convention with the authority to, in consultation with the Secretary of the department in which the U.S. Coast Guard is operating, adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. This final rule is consistent with the Halibut Act and other applicable laws.

*Executive Order 12866*

This final rule has been determined to be not significant for purposes of Executive Order 12866. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866. This final rule also complies with the Secretary of Commerce's authority under the Halibut Act to implement management measures for the halibut fishery.

*Regulatory Flexibility Act*

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. Several comments were received regarding the increased burden of the annual registration requirement or disputing its utility. These are addressed in the Response to Comment section of this final rule. Specifically, Comment 6 expresses concern about the increased burden resulting from this action. The agency response to this comment briefly summarizes the rationale for certification which include the minimal cost and time burden anticipated to complete the CHP annual registration process. No comments were received providing new information for, or refuting the factual basis for certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

*Regulatory Impact Review*

An RIR was prepared to assess all costs and benefits of available regulatory alternatives. A copy of the RIR is available from NMFS (see **ADDRESSES**). The Council recommended this action based on those measures that maximized net benefits to the Nation.

*Collection-of-Information Requirements*

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been submitted for approval by the Office of Management and Budget under OMB Control Number 0648–0592, Pacific Halibut Fisheries: Charter Permits. Public reporting burden is estimated to average 15 minutes per response for the application for annual registration of a CHP and 4 hours per response for appeal of a denied application. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Send comments on these burden estimates or any other aspects of the collections of information, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**), and by email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–5806.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at *https://www.reginfo.gov/public/do/PRAMain*.

**List of Subjects**

*50 CFR Part 300*

Administrative practice and procedure, Antarctica, Canada, Exports, Fish, Fisheries, Fishing, Imports, Indians, Labeling, Marine resources, Reporting and recordkeeping requirements, Russian Federation, Transportation, Treaties, Wildlife.

*50 CFR Part 679*

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: November 14, 2019.

**Samuel D. Rauch III,**

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

For the reasons set out in the preamble, NMFS amends 50 CFR parts 300 and 679 as follows:

## PART 300—INTERNATIONAL FISHERIES REGULATIONS

### Subpart E—Pacific Halibut Fisheries

■ 1. The authority citation for part 300, subpart E, continues to read as follows:

**Authority:** 16 U.S.C. 773–773k.

■ 2. In § 300.67, add paragraph (a)(4) and revise paragraph (h)(6) introductory text to read as follows:

**§ 300.67 Charter halibut limited access program.**

* * * * *

(a) * * *

(4) *Annual registration.* A charter halibut permit holder must register a charter halibut permit with NMFS during the calendar year when it will be used to be valid.

(i) *Application and submittal.* An application for a charter halibut permit annual registration will be made available by NMFS. A completed registration application may be submitted using the NMFS-approved electronic reporting system on the Alaska Region website at *https://www.fisheries.noaa.gov/region/alaska*. Completed applications may also be submitted by mail, hand delivery, or facsimile at any time to the address(s) listed on the application.

(ii) *Complete annual registration.* To be complete, a charter halibut permit registration application must have all required fields accurately completed and be signed and dated by the applicant.

(iii) *Denied registration applications.* If NMFS does not approve an annual charter halibut permit registration application, NMFS will inform the applicant of the basis for its disapproval

and provide the applicant with a 30-day evidentiary period in which to correct any application deficiencies.

(A) *Initial Administration Determination (IAD).* NMFS will send an IAD to the applicant following the expiration of the 30-day evidentiary period if NMFS determines there is sufficient reason to deny the application. The IAD will indicate the deficiencies in the application and the deficiencies with the information submitted by the applicant in support of its claim.

(B) *Appeal.* An applicant that receives an IAD may appeal to the Office of Administrative Appeals (OAA) pursuant to 15 CFR part 906.

* * * * *

(h) * * *

(6) *Appeal.* An applicant that receives an IAD may appeal to the Office of Administrative Appeals (OAA) pursuant to 15 CFR part 906.

* * * * *

## PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 3. The authority citation for part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281.

■ 4. In § 679.4, revise paragraph (a)(1)(xv)(A) to read as follows:

### § 679.4 Permits.

(a) * * *

(1) * * *

| If program permit or card type is: | Permit is in effect from issue date through the end of: | For more information, see * * * |
|---|---|---|
| * * * * * | | |
| (xv) * * *. | | |
| (A) Charter halibut permit. | Until expiration date shown on permit. | § 300.67 of this title. |
| * * * * * | | |

* * * * *

[FR Doc. 2019–25072 Filed 11–19–19; 8:45 am]

BILLING CODE 3510–22–P

# Proposed Rules

Federal Register
Vol. 84, No. 224
Wednesday, November 20, 2019

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 986

**[Doc. No. AMS–SC19–0029, SC19–986–2 PR]**

## Pecans Grown in the States of Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas; Reporting Requirements

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would implement a recommendation from the American Pecan Council (Council) to revise the reporting requirements prescribed under the Federal marketing order regulating the handling of pecans. This action would reduce the number of monthly reporting requirements, revise the requirements for inter-handler transfers, and make other conforming changes to the reporting requirements.

**DATES:** Comments must be received by December 20, 2019.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or internet: *http://www.regulations.gov*. All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov*. All comments submitted in response to this proposal will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

**FOR FURTHER INFORMATION CONTACT:** Jennie M. Varela, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 291–8614, or email: *Jennie.Varela@usda.gov* or *Christian.Nissen@usda.gov*.

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202)720–8938, or email: *Richard.Lower@usda.gov*.

**SUPPLEMENTARY INFORMATION:** This action, pursuant to 5 U.S.C. 553, proposes an amendment to regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Agreement and Order No. 986, (7 CFR part 986), regulating the handling of pecans grown in the states of Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas. Part 986 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Council locally administers the Order and is comprised of growers and handlers of pecans operating within the production area, and one accumulator and one public member.

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

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

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposed rule would revise the reporting requirements under the Order by reducing the number of monthly reports from six to three and revising the inter-handler report from a monthly to an annual report. This proposal also would make other conforming and clarifying changes to the reporting requirements. These changes would help reduce the regulatory burden on handlers by reducing reporting requirements. This proposal was unanimously recommended by the Council at its December 18, 2018, meeting.

Sections 986.75, 986.76, and 986.77 of the Order provide authority to the Council to require handlers to submit reports of inventory, merchantable pecans handled, and pecans received by handlers, respectively, on such dates as the Council may prescribe. Section 986.78 further provides, with the approval of the Secretary, authority for the Council to collect other reports and information from handlers needed to perform its duties.

Section 986.162 outlines the reporting requirements for inter-handler transfers, and § 986.175 establishes the requirements for the annual year-end inventory report. Section 986.177 prescribes the monthly reporting

requirements for pecans received by handlers and for pecans purchased outside the United States. Section 986.178 includes requirements for a monthly report of shipments and inventory, a monthly report of exports, and a monthly report of pecans exported to Mexico for shelling to be returned to the United States.

During the promulgation of the Order, the data collection component was considered one of the most important aspects of the Order. Consequently, when discussing establishing reporting requirements, the Council wanted to ensure the data needed was being collected so valuable reports could be provided to the industry. The Council recommended the initial reporting requirements in 2017, which required handlers to submit six different reports each month and an annual report including pecans received, shipped, held in inventory, transferred, exported for sale or shelling, and purchased from outside the United States. To facilitate this information collection, the Council held handler information sessions throughout 2018 to explain the reporting process and gather feedback on which, if any, reports were difficult to complete.

At its December 18, 2018, meeting, the Council revisited the reporting requirements, reviewing feedback from the handler sessions. During the handler sessions, some industry members stated it was expensive and time consuming to submit accurate reports each month. Council staff also indicated that handlers were submitting incomplete and inaccurate reports, making it difficult to summarize the data and distribute accurate, timely statistical reports. It was also reported that Council staff were fielding calls daily regarding reporting requirements and the burden placed on handlers. The monthly inter-handler transfer report was also cited specifically as needing to be changed.

To address these concerns, the Council discussed ways to reduce the number of reporting requirements and to address the concerns surrounding the inter-handler transfer report. To accomplish this, the Council recommended combining four of the monthly reporting requirements into two, and converting the inter-handler transfer report from a monthly report into an annual report to reduce and simplify the reporting process. These changes would reduce the number of monthly reports from six to three.

The Council recommended combining the monthly report of pecans received and the report of shipments and inventory into one summary report. The report of pecans received currently includes handler information, the month covered by the report, the total weight and type of inshell pecans received, and the weight by variety of improved pecans received. The report also includes information regarding total assessments owed and total pounds reported to date. The report of shipments and inventory includes handler information, the month covered by the report, shipments of shelled and inshell pecans, current inventory, and pecans in inventory already committed for shipment.

In addition to combining the reports, the Council also recommended eliminating reporting pecans received by variety. Many handlers submit information on mixed loads, and found it burdensome, and in some cases impossible, to identify the variety of pecans received. Further, Council staff estimated over 76 percent of all pecans received cannot be identified by variety. Some varieties are also limited in use, so disclosing their tonnage would not be possible without potentially revealing proprietary information.

Handlers also expressed difficulty in understanding which reports applied to them and whether they needed to submit additional reports throughout the fiscal year. Consequently, the Council revised the summary report to include guidance that assists handlers in determining whether any other reports are necessary.

The Council agreed the information on pecans received could easily be combined with the report of shipments and inventory to create one monthly summary report. The Council believes this consolidated report would be easier for handlers to complete and still provide the necessary information.

Two other reports the Council agreed could be combined are the report of pecans purchased outside the United States and the report of pecans shipped to Mexico for shelling and then returned to the United States. The monthly report of pecans purchased outside the United States includes the name of the handler importing pecans, the month covered by the report, the date imported, country of origin, volume, and variety of pecans imported. The report of inshell pecans exported to Mexico for shelling includes handler information, the month covered by the report, dates of shipments, the total weight of inshell pecans shipped for shelling, and the weight of shelled pecans returned to the United States.

Initially, the Council recommended separate reports to ensure the import data collected was accurate. The industry was concerned import data available at the time was not accounting for domestic product sent to Mexico for processing then returned to the United States. Hence, it was difficult to estimate current supply. However, feedback from the industry indicated handlers could provide the necessary data to account for both foreign purchases and domestic product being shelled then returned from Mexico in a consolidated report rather than submitting two separate reports. Thus, the Council recommended combining these two reports.

The current inter-handler transfer report is submitted monthly. The report includes information on the month of transfer, type of pecans transferred, the volume transferred, the amount of assessments owed on the pecans transferred, handler information, and signatures of the two handlers involved. It also indicates if the transferring handler or receiving handler would be responsible for reporting and paying the assessments.

When established, the inter-handler transfer form was intended to relieve small handlers of the burden of reporting and submitting assessments by allowing them to transfer those requirements to a second handler purchasing the pecans. In practice, handlers have struggled to track the volume of all the shipments within a month, and often the forms submitted were incomplete or did not include both handler signatures.

Inter-handler transfers usually occur between the same two handlers throughout the year. Consequently, the Council recommended to simplify the process of meeting the inter-handler transfer requirements by establishing one report that would cover the transfers between the same two handlers for the whole fiscal year. Agreements between new handlers require submission of a new form with the Council.

The changes proposed by the Council would require handlers to submit a report following the first transfer of the fiscal year. By filing the Inter-Handler Transfer Form with the Council, the receiving and transferring handlers establish an agreement that remains in effect for the entire fiscal year. The receiving and transferring handlers need to complete their portions of the form and file it annually with the Council. It would also remove the requirement for the report to include the associated volume transferred. Instead, the volume associated with the inter-handler transfer would be reported by the receiving handler. Handlers will still maintain the option of designating who is responsible for paying the assessments on the pecans transferred,

as currently authorized in 986.162(5). The Council expects the proposed change to provide some reporting relief to small handlers and create a more efficient method of tracking transferred pecans.

Along with these changes, the Council recommended conforming and clarifying adjustments to the remaining two reporting forms in §§ 986.175 and 986.178. These changes include renumbering the forms to remain in sequential order, removing past dates that no longer apply, and updating terms to be consistent with the Order. The Council believes these revised reporting requirements are necessary to maintain compliance with the assessment requirements of the Order and provide accurate reports to the industry on the production and total supply of pecans.

**Initial Regulatory Flexibility Analysis**

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

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

There are approximately 2,500 growers of pecans in the production area and approximately 250 handlers subject to the Order. Small agricultural growers are defined by the Small Business Administration as those having annual receipts less than $1,000,000, and small agricultural service firms are defined as those whose annual receipts are less than $30,000,000 (13 CFR 121.201).

According to information from the National Agricultural Statistics Service (NASS), the average grower price for pecans during the 2016–2017 season was $2.59 per pound and 269 million pounds were utilized. The value for pecans that year totaled $697 million ($2.59 per pound multiplied by 269 million pounds). Taking the total value of production of pecans and dividing it by the total number of pecan growers provides an average return per grower of $278,684. Using the average price and utilization information, and assuming a normal distribution among growers, the majority of growers receive less than $1,000,000 annually.

Evidence presented at the formal rulemaking hearing held in 2015 indicated an average handler margin of $0.58 per pound. Adding this margin to the average grower price of $2.59 per pound of inshell pecans results in an estimated handler price of $3.17 per pound. With a total 2017 production of 269 million pounds, the total value of production in 2017 was $853 million ($3.17 per pound multiplied by 269 million pounds). Taking the total value of production of pecans and dividing it by the total number of pecan handlers provides an average return per handler of $3.4 million. Using this estimated price, the utilization volume, number of handlers, and assuming a normal distribution among handlers, the majority of handlers have annual receipts of less than $30,000,000. Thus, the majority of growers and handlers regulated by the Order may be classified as small entities.

This proposed rule would revise the reporting requirements in the Order by reducing the number of monthly reports from six to three and revising the inter-handler report from a monthly to an annual report. This proposal also would make other conforming changes to the reporting requirements. This proposed rule would revise §§ 986.162, 986.175, 986.177, and 986.178. The authority for these actions is provided in §§ 986.75, 986.76, 986.77, and 986.78 of the Order.

It is not anticipated that this proposed rule would impose additional costs on handlers or growers, regardless of size. Handlers should see a savings in time and labor cost due to the reduced number of forms submitted each month. The change to an annual inter-handler transfer report in place of a monthly report should provide additional time savings to both handlers involved in the transaction. Council members, including those representing small businesses, recommended these changes in order to ease the reporting and regulatory burden on industry handlers. The benefits of this rule are expected to be equally available to all pecan growers and handlers, regardless of their size.

The Council discussed other alternatives to this proposed action, including eliminating the inter-handler transfer option. However, removing the inter-handler transfer option from the Order could involve a lengthy process. Also, the inter-handler transfer was supported during promulgation of the marketing order as a way to ease reporting burdens on small businesses.

Another alternative considered was leaving the current reporting requirements unchanged. When the current requirements were established, the Council was eager to collect as much data as possible. Despite considerable industry outreach, many handlers had difficulty meeting the reporting requirements. The Council believed it must respond to the issues raised by handlers and address the extensive resources being used by its staff to help handlers comply with the reporting requirements in the Order. Therefore, the alternatives were rejected.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0291 ''Federal Marketing Order for Pecans.'' This proposed rule would require changes to the Council's existing forms by combining forms and shifting one form from a monthly report to an annual report. However, the changes are minor, and the currently approved burden would decrease due to the proposed changes. The revised forms have been submitted to OMB for approval.

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

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

Further, the Council's meetings were widely publicized throughout the pecan industry and all interested persons were invited to attend the meetings and participate in Council deliberations on all issues. Additionally, the Council's meeting held on December 18, 2018, was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and information collection impacts of this proposed action on small businesses.

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

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

**List of Subjects in 7 CFR Part 986**

Marketing agreements, Nuts, Pecans, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 986 is proposed to be amended as follows:

## PART 986—PECANS GROWN IN THE STATES OF ALABAMA, ARKANSAS, ARIZONA, CALIFORNIA, FLORIDA, GEORGIA, KANSAS, LOUISIANA, MISSOURI, MISSISSIPPI, NORTH CAROLINA, NEW MEXICO, OKLAHOMA, SOUTH CAROLINA, AND TEXAS

■ 1. The authority citation for 7 CFR part 986 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Revise § 986.162 to read as follows:

**§ 986.162 Inter-handler transfers.**

(a) Inter-handler transfers of inshell pecans, pursuant to § 986.62, shall be reported to the Council on APC Form 4. Handlers shall file reports by the tenth day of the month following the first transfer between two handlers. Should the tenth day of the month fall on a weekend or holiday, reports are due by the first business day following the tenth day of the month. This report must be renewed each fiscal year. The report shall contain the following information:

(1) The fiscal year covered by the report;

(2) The names and signatures for both the transferring and receiving handler; and

(3) Handler assuming the reporting and assessment obligations on the pecans transferred.

(b) [Reserved].

■ 3. Amend § 986.175 by revising paragraph (a) introductory text to read as follows:

**§ 986.175 Handler inventory.**

(a) Handlers shall submit to the Council a year-end inventory report following August 31 each fiscal year. Handlers shall file such reports by September 10. Should September 10 fall on a weekend, reports are due by the first business day following September 10. Such reports shall be reported to the Council on APC Form 5 and include:

* * * * *

■ 4. Amend § 986.177 by:

■ a. Revising paragraph (a) introductory text, and paragraphs (a)(3) and (4);

■ b. Adding paragraphs (a)(6) through (a)(10);

■ c. Revising paragraph (b) introductory text; and

■ d. Adding paragraphs (b)(6) through (b)(9).

The additions and revisions read as follows:

**§ 986.177 Reports of pecans received by handlers.**

(a) *Summary report.* Handlers shall submit to the Council, by the tenth day of the month, a summary report of inshell domestic pecans received, and all shipments, inventory, and committed inventory for pecans following the month of activity. Should the tenth day of the month fall on a weekend or holiday, reports are due by the first business day following the tenth day of the month. The report shall be submitted to the Council on APC Form 1 and contain the following information:

* * * * *

(3) The total weight and type of inshell pecans received during the reporting period;

(4) The total weight and type of inshell pecans received year to date; and,

* * * * *

(6) The weight of all shipments of pecans, inshell and shelled, and inter-handler transfers shipped and received during the reporting period;

(7) The weight of all shipments of pecans, inshell and shelled, and inter-handler transfers shipped and received in the previous month and year to date;

(8) Total inventory held by handler;

(9) All the inventory committed (pecans not shipped, but sold or otherwise obligated) whether for domestic sale or export; and,

(10) The weight of all shelled or inshell pecans under contract for purchase from other handlers.

(b) *Pecans purchased outside the United States and inshell pecans exported to Mexico for shelling and returned to the United States as shelled meats.* Handlers shall submit to the Council, by the tenth day of the month following the month of activity, a summary report of shelled and inshell pecans imported during the preceding month. Should the tenth day of the month fall on a weekend or holiday, reports are due by the first business day following the tenth day of the month. The report shall be submitted to the Council on APC Form 2 and contain the following information:

* * * * *

(6) The weight of inshell pecans exported to Mexico for shelling;

(7) The date shelled pecans returned to the United States after shelling in Mexico;

(8) The weight of shelled pecans returned to the United States after shelling in Mexico; and

(9) The total weight of inshell pecans exported to Mexico for shelling, and shelled pecans returned from Mexico, year to date.

■ 5. Amend § 986.178 by revising paragraph (a) to read as follows:

**§ 986.178 Other reports.**

(a) *Exports by country of destination.* Handlers shall submit to the Council, by the tenth day of the month following the month of shipment, a report of exports. Should the tenth day of the month fall on a weekend or holiday, reports are due by the first business day following the tenth day of the month. The report shall be reported to the Council on APC Form 3 and contain the following information:

(1) The name and address of the handler;

(2) The month covered by the report;

(3) The total weight of pecans shipped for export, whether inshell, shelled, or substandard during the reporting period;

(4) The total weight of pecans shipped for export, whether inshell, shelled, or substandard during the previous period and year to date; and,

(5) The destination(s) of such exports.

* * * * *

Dated: November 14, 2019.

**Bruce Summers,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2019–25083 Filed 11–19–19; 8:45 am]

**BILLING CODE 3410–02–P**

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 252

**[Regulation YY; Docket No. R–1534]**

**RIN 7100–AE 38**

### Single-Counterparty Credit Limits for Bank Holding Companies and Foreign Banking Organizations

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

**ACTION:** Notice of proposed rule to modify compliance dates.

**SUMMARY:** The Board is proposing to amend the compliance dates for Single-Counterparty Credit Limits for Bank Holding Companies and Foreign Banking Organizations, which it

finalized in a rule (final SCCL rule), published in the **Federal Register** on August 6, 2018. The Board is requesting comment on a proposed amendment that would modify these initial compliance dates to July 1, 2021, and January 1, 2022, respectively, regarding the single-counterparty credit limits applicable to a foreign banking organization's combined U.S. operations only. The Board is not proposing at this time any amendment that would modify the initial compliance dates in the final rule for, or otherwise amend the application of, single-counterparty credit limits applicable to any U.S. intermediate holding company of a foreign banking organization.

**DATES:** Comments must be received on or before December 20, 2019.

**ADDRESSES:** You may submit comments, identified by Docket No. R–1534 and RIN 7100–AE 38, by any of the following methods:

- *Agency website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include docket number and RIN in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays.

**FOR FURTHER INFORMATION CONTACT:** Constance M. Horsley, Deputy Associate Director, (202) 452–5239; Juan C. Climent, Manager, (202) 872–7526; Lesley Chao, Lead Financial Institution Policy Analyst, (202) 974–7063; or Donald Gabbai, Lead Financial Institution Policy Analyst, (202) 452–3358, Division of Supervision and Regulation; or Laurie Schaffer, Associate General Counsel, (202) 452–2272; Benjamin W. McDonough, Assistant General Counsel, (202) 452–2036; Chris Callanan, Counsel, (202) 452–3594; Lucy Chang, Counsel, (202) 475–6331; or Jeffery Zhang, Attorney, (202) 736–1968, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

**SUPPLEMENTARY INFORMATION:**

## I. Discussion

On August 6, 2018,at 83 FR 38460, the Board published in the **Federal Register** a final rule to establish single-counterparty credit limits (SCCL) for bank holding companies and foreign banking organizations (FBOs) with total consolidated assets of at least $250 billion, pursuant to section 165(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (final SCCL rule).[1] The rule was amended as part of the Board's recent rule establishing risk-based categories for determining prudential standards for large U.S. banking organizations and foreign banking organizations.[2] For FBOs, the amended final rule establishes separate SCCL applicable to (1) the combined U.S. operations of an FBO that is subject to Category II or III standards or that has total global consolidated assets of $250 billion or more, and (2) any U.S. intermediate holding company (IHC) that is subject to Category II or III standards. With respect to the SCCL applicable to the combined U.S. operations of an FBO, the final SCCL rule establishes different compliance dates based on whether the FBO has the characteristics of a global systemically important banking organization (GSIB). An FBO that has the characteristics of a GSIB must comply with these SCCL beginning on January 1, 2020, while an FBO that does not have the characteristics of a GSIB must comply beginning on July 1, 2020, unless that time is extended by the Board in writing.[3]

The final SCCL rule allows an FBO to comply with the SCCL applicable to its combined U.S. operations by certifying to the Board that it meets, on a consolidated basis, SCCL standards established by its home country supervisor that are consistent with the large exposures framework published by the Basel Committee on Banking Supervision in 2014 (BCBS Large Exposure Standard). The BCBS Large Exposure Standard is consistent with the Board's final rule.[4]

Since finalization of the final SCCL rule, many foreign banks and their trade associations have noted that, although efforts are underway in many jurisdictions to implement the BCBS Large Exposure Standard, the framework may not be fully implemented in the home countries of FBOs before the initial compliance dates of the final rule. Foreign banks indicated that it would be significantly burdensome to build systems to permit their combined U.S. operations to report compliance with the Board's final SCCL rule solely for use during the implementation gap period, since those FBOs will eventually be subject instead to a home-country large exposures framework consistent with the BCBS Large Exposure Standard on a consolidated basis. Foreign banks have requested that the Board consider either (1) allowing an FBO subject to the Board's final rule to comply through certification if its home country supervisor is ''working towards'' a framework consistent with the BCBS Large Exposure Standard, or (2) granting temporary relief to an FBO whose home country jurisdiction is working towards a framework consistent with the BCBS Large Exposure Standard.

The home countries of the FBOs whose combined U.S. operations are subject to the Board's SCCL rule are China, Switzerland, Canada, Japan, and member states of the European Union. Those countries generally have made progress over the past year on implementing the BCBS Large Exposure Standard. At this time, China and Switzerland have final frameworks that have become effective, and Canada finalized an SCCL framework that will become effective on November 1, 2019.[5] The European Union recently finalized an SCCL framework that will become effective on June 28, 2021.[6] Japan does not yet have a final effective framework. Staff expects that the United Kingdom

[1] *See* 12 U.S.C. 5365(e).

[2] 84 FR 59032 (Nov. 1, 2019).

[3] 12 CFR 252.170(c).

[4] 12 CFR 252.172(d).

[5] *See* FINMA Circular 2013/7 ''Intragroup exposure—banks'' and Circular 2019/1 ''Risk diversification—banks'' (effective as of Jan. 1, 2019); IMF, Peoples Republic of China: Detailed Assessment of Observance of Basel Core Principles for Effective Banking Supervision, IMF Country Report No. 17/403 (Dec. 2017); OSFI Guideline B–2, Large Exposure Limits (effective as of Nov. 1, 2019). Although Canada's framework is effective as of November 1, 2019, implementation by Canadian banks will begin in Q1 2020.

[6] *See* Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012.

will follow the European Union's final framework.[7]

In adopting the final rule, the Board agreed to defer to home country compliance with the BCBS Large Exposure Standard to prevent application of two nearly redundant SCCL frameworks to the combined U.S. operations of FBOs.[8]

For these reasons, the Board proposes to amend the final SCCL rule to extend the initial compliance dates for the combined U.S. operations of FBOs by 18 months. The Board believes this timeframe would provide a reasonable period for firms to come into compliance with the final SCCL rule, either through direct compliance with the rule or certification. The proposed initial compliance dates applicable to the combined U.S. operations of an FBO would be July 1, 2021, for an FBO that has the characteristics of a GSIB and January 1, 2022, for any other FBO. The Board does not propose to amend the final SCCL rule to extend the initial compliance dates under the final SCCL rule with respect to the SCCL applicable to any U.S. IHC of an FBO. Any U.S. IHC of an FBO is expected to comply with the final SCCL rule on January 1, 2020, or July 1, 2020, as applicable, unless that time is separately extended by the Board in writing.

The Board invites comment on all aspects of this proposal.

*Question 1: Are the proposed extensions of the compliance dates for an FBO to meet the SCCL applicable to its combined U.S. operations appropriate? Why or why not?*

*Question 2: Should the Board consider any shorter or longer extension of the compliance dates for an FBO to meet the SCCL applicable to its combined U.S. operations? If so, what time period should the Board consider and why?*

*Question 3: Under what circumstances, if any, should the Board consider providing additional extensions of the compliance dates related to specific events or circumstances that would apply to a subset of firms? Should the Board consider any alternate arrangements to address such specific events or circumstances, and, if so, why?*

[7] Correspondence from Stephanie Webster, General Counsel, Institute of International Bankers, to Lucy Chang, Counsel, Board of Governors of the Federal Reserve System (Apr. 1, 2019); Correspondence from Briget Polichene, Chief Executive Officer, Institute of International Bankers, to Lucy Chang, Counsel, Board of Governors of the Federal Reserve System (Oct. 9, 2019).

[8] 83 FR at 38487.

## II. Administrative Law Matters

### *A. Paperwork Reduction Act*

Certain provisions of the proposed rule contain ''collections of information'' within the meaning of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Board reviewed the proposed rule under the authority delegated to the Board by OMB.

The proposed rule contains revisions to the compliance date for the reporting and recordkeeping requirements subject to the PRA. To implement these requirements, the Board proposes to revise the Single-Counterparty Credit Limits (FR 2590; OMB No. 7100–NEW).

Comments are invited on:

(a) Whether the proposed collections of information are necessary for the proper performance of the Board's functions, including whether the information has practical utility;

(b) The accuracy of the estimates of the burden of the proposed information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

**Proposed Revision, With Extension, of the Following Information Collection**

*Report title:* Single-Counterparty Credit Limits.

*Agency form number:* FR 2590.

*OMB control number:* 7100–NEW.

*Frequency:* Quarterly, annual, and event-generated.

*Affected Public:* Businesses or other for-profit.

*Respondents:* U.S. global systemically important bank holding companies (G–SIBs) and other U.S. bank holding companies (BHCs) or savings and loan holding companies (SLHCs) that are subject to Category I, II, or III standards; foreign banking organizations (FBOs) that are subject to Category II or III standards or that have $250 billion or more in total global consolidated assets; and U.S. intermediate holding companies (IHCs) that are subject to Category II or III standards.

*Estimated number of respondents:* 75.

*Estimated average hours per response:*

*Reporting*

*One-time implementation:* 1,273 hours.

*Ongoing:* 254 hours.

*Requests for temporary relief:* 10 hours.

*Recordkeeping*

*Recordkeeping:* 0.25 hours.

*Estimated annual burden hours:*

*Reporting*

*One-time implementation:* 95,475 hours.

*Ongoing:* 76,200 hours.

*Requests for temporary relief:* 30 hours.

*Recordkeeping*

*Recordkeeping:* 75 hours.

*General description of report:* The FR 2590 is being implemented in connection with the Board's single-counterparty credit limits rule (SCCL rule),[9] which has been codified in the Board's Regulation YY—Enhanced Prudential Standards (12 CFR part 252).[10]

The information collected by the Single-Counterparty Credit Limits reporting form (FR 2590 report) will allow the Board to monitor a covered company's or a covered foreign entity's compliance with the SCCL rule. As amended by the Board's final tailoring rule, a covered company is any U.S. bank holding company (BHC) or savings and loan holding company (SLHC) that is subject to Category I, II, or III standards.[11] A covered foreign entity is any foreign banking organization (FBO) that is subject to Categories II or III standards or that has total global consolidated assets that equal or exceed $250 billion and any U.S. intermediate holding company (IHC) that is subject to Category II or III standards.[12] In addition to the reporting form, the FR 2590 information collection incorporates notice requirements pertaining to requests that may be made by a covered company or covered foreign entity to request temporary relief from specific requirements of the SCCL rule. A respondent must retain one exact copy of each completed FR 2590 in electronic form, and these records must be kept for at least three years.

*Legal authorization and confidentiality:* The FR 2590 is authorized pursuant to section 5(c) of

[9] 83 FR 38460 (Aug. 6, 2018).

[10] *See* 12 CFR 252, subparts H and Q.

[11] 12 CFR 252.70, 252.170; *see also* 84 FR 59032 (Nov. 1, 2019).

[12] *Id.*

the Bank Holding Company Act of 1956 (BHC Act) (12 U.S.C. 1844(c)) for BHCs and section 10(b) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)). With respect to FBOs and their subsidiary IHCs, the FR 2590 is authorized pursuant to section 5(c) of the BHC Act, in conjunction with section 8 of the International Banking Act of 1978 (12 U.S.C. 3106). The FR 2590 is mandatory.

The data collected on the FR 2590 form will be kept confidential under exemption 4 of the Freedom of Information Act (FOIA), which protects from disclosure trade secrets and commercial or financial information (5 U.S.C. 552(b)(4)), and exemption 8 of FOIA, which protects from disclosure information related to the supervision or examination of a regulated financial institution (5 U.S.C. 552(b)(8)).

Regarding notices associated with requests for temporary relief from specific requirements of the SCCL rule, a firm may request confidential treatment under the Board's rules regarding confidential treatment of information at 12 CFR 261.15. The Board will consider whether such information may be kept confidential in accordance with exemption 4 of FOIA (5 U.S.C. 552(b)(4)) or any other applicable FOIA exemption.

*Current Actions:* The final SCCL rule had an effective date of October 5, 2018, and an initial compliance date of January 1, 2020, for a foreign banking organization that has the characteristics of a global systemically important banking organization, and July 1, 2020, for any other foreign banking organization subject to the rule, unless that time is extended by the Board in writing. The Board proposes to modify these initial compliance dates to July 1, 2021, and January 1, 2022, respectively, regarding the SCCL applicable to such a foreign banking organization's combined U.S. operations only. The Board is not proposing any amendment at this time that would modify the initial compliance dates in the final rule for, or otherwise amend the application of, single-counterparty credit limits applicable to any U.S. intermediate holding company of a foreign banking organization subject to the rule. There are no proposed changes to the reporting or recordkeeping requirements for such entities, and the burden hours would remain the same.

*B. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities. However, a regulatory flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined ''small entities'' to include banking organizations with total assets of less than or equal to $600 million.[13] The Board has considered the potential impact of the proposal on small entities in accordance with the RFA. The Board believes that the proposal will not have a significant economic impact on a substantial number of small entities.

As discussed in the **SUPPLEMENTARY INFORMATION**, the final SCCL rule generally applies to U.S. bank holding companies subject to Category I, II, or III standards, and foreign banking organizations that are subject to Category II or III standards or that have total global consolidated assets of at least $250 billion. Companies that are subject to the final SCCL rule have consolidated assets that substantially exceed the $600 million asset threshold at which a banking organization is considered a ''small entity'' under SBA regulations. Because the final SCCL rule does not apply to any small entities for purposes of the RFA, the proposed amendments to the rule to extend the initial compliance dates applicable to FBOs subject to SCCL with respect to their combined U.S. operations would not affect any small entity for purposes of the RFA. The Board's proposed rule would not impose any new recordkeeping, reporting, or compliance requirements. The Board does not believe that the proposal duplicates, overlaps, or conflicts with any other Federal rules. The Board does not believe that there are any significant alternatives to the proposal which accomplish its stated objectives. In light of the foregoing, the Board does not believe that proposal, if adopted in final form, would have a significant economic impact on a substantial number of small entities. Nonetheless, the Board seeks comment on whether the proposal would impose undue burdens on, or have unintended consequences for, small banking organizations and whether there are ways such potential burdens or consequences could be minimized in a manner consistent with the purpose of the proposal.

[13] *See* 13 CFR 121.201. Effective August 19, 2019, the Small Business Administration revised the size standards for banking organizations to $600 million in assets from $550 million in assets. *See* 84 FR 34261 (July 18, 2019). Consistent with the General Principles of Affiliation in 13 CFR 121.103, the Board counts the assets of all domestic and foreign affiliates when determining if the Board should classify a Board-supervised institution as a small entity.

*C. Solicitation of Comments on the Use of Plain Language*

Section 722 of the Gramm–Leach–Bliley Act requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board has sought to present the proposed amendments to the rule in a simple and straightforward manner and invites comment on the use of plain language.

**List of Subjects in 12 CFR Part 252**

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

**Authority and Issuance** For the reasons stated in the preamble, the Board of Governors of the Federal Reserve System proposes to amend 12 CFR part 252 as follows:

## PART 252—ENHANCED PRUDENTIAL STANDARDS (REGULATION YY).

### § 252.170 Applicability and general provisions.

■ 1. The authority citation for part 252 continues to read as follows:

**Authority:** 12 U.S.C. 321–338a, 481–486, 1818, 1828, 1831n, 1831o, 1831p–l, 1831w, 1835, 1844(b), 1844(c), 3101 *et seq.,* 3101 note, 3904, 3906–3909, 4808, 5361, 5362, 5365, 5366, 5367, 5368, 5371.

■ 2. Amend § 252.170 by revising paragraphs (c)(1)(i) and (ii) to read as follows:

* * * * *

(c) * * * (1) * * * (i) A foreign banking organization that is a covered foreign entity as of October 5, 2018, must comply with the requirements of this subpart, including but not limited to § 252.172, beginning on January 1, 2022, unless that time is extended by the Board in writing.

(ii) Notwithstanding paragraph (c)(1)(i) of this section, a foreign banking organization that is a major foreign banking organization as of October 5, 2018, must comply with the requirements of this subpart, including but not limited to § 252.172, beginning on July 1, 2021, unless that time is extended by the Board in writing.

* * * * *

By order of the Board of Governors of the Federal Reserve System, November 8, 2019.

**Ann Misback,**

*Secretary of the Board.*

[FR Doc. 2019–24966 Filed 11–19–19; 8:45 am]

**BILLING CODE 6210–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[Docket No. EPA–R09–OAR–2019–0564; FRL–10002–24–Region 9]**

## Air Plan Approval; California; Mojave Desert Air Quality Management District

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the Mojave Desert Air Quality Management District (MDAQMD) portion of the California State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOCs) from organic liquid and gasoline transfer and storage operations. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Any comments must arrive by December 20, 2019.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R09–OAR–2019–0564 at *https://www.regulations.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/commenting-epa-dockets.*

**FOR FURTHER INFORMATION CONTACT:** Rebecca Newhouse, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105, (415) 972–3004, *newhouse.rebecca@epa.gov.*

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

### Table of Contents



### I. The State's Submittal

#### *A. What rules did the State submit?*

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

| Local agency | Rule No. | Rule title | Amended | Submitted |
|---|---|---|---|---|
| MDAQMD | 461 | Gasoline Transfer and Dispensing | 01/22/2018 | 05/23/2018 |
| MDAQMD | 462 | Organic Liquid Loading | 01/22/2018 | 05/23/2018 |
| MDAQMD | 463 | Storage of Organic Liquids | 01/22/2018 | 05/23/2018 |

On November 23, 2018, the submittal of Rules 461, 462, and 463 for MDAQMD was deemed by operation of law to meet the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

#### *B. Are there other versions of these rules?*

The MDAQMD regulates portions of San Bernardino and Riverside Counties. On July 1, 1994, a portion of Riverside County left the South Coast Air Quality Management District (SCAQMD) and joined the MDAQMD. The EPA-approved SIP for this portion of Riverside County remained the same when the area changed districts. As a result, the Riverside County portion of the MDAQMD SIP retained the SCAQMD rules in place at that time.

We approved earlier versions of MDAQMD Rules 461 and 462 into the SIP on May 3, 1995 (60 FR 21702). These rules applied in both the San Bernardino and Riverside County portions of the MDAQMD and replaced the existing versions of Rules 461 and 462 in place in the District at that time.

On May 3, 1995 (60 FR 21702), we also approved a version of Rule 463 submitted by the San Bernardino County Air Pollution Control District on November 2, 1992. This rule was only approved to apply in the San Bernardino County portion of the District. In the Riverside County portion of the MDAQMD, the EPA approved the June 1, 1984 version of SCAQMD Rule 463 on January 15, 1987 (52 FR 1627). For a more complete discussion of the SIP history of these rules, see the technical support documents (TSDs).

The MDAQMD adopted revisions to all three rules on January 22, 2018, and CARB submitted them to us on May 23, 2018. In its submission, the District requested that in the San Bernardino County portion of the District the newly-adopted rules replace the versions of Rules 461, 462, and 463, approved in 1995, and that in the Riverside County portion of the District, the rules replace all versions of the rules that are applicable in Riverside County.

#### *C. What is the purpose of the submitted rule revisions?*

Emissions of VOCs contribute to the production of ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. SIP-approved Rules 461, 462, and 463 limit VOC emissions from organic liquid storage tanks and during transfers at bulk terminals, bulk gasoline plants, and gasoline dispensing

facilities. Major revisions to the SIP-approved versions of the rules include requiring CARB-certification for vapor recovery systems, requiring a minimum vapor recovery efficiency for gasoline transfers to mobile fuelers, lowering the threshold for determining vapor leaks, lowering the vapor pressure cut-off for stationary storage tanks, adding an emissions limit for organic liquid transfers at bulk terminals, adding backpressure requirements during organic liquid transfer, and strengthening recordkeeping and inspection requirements, among other changes. The EPA's TSDs have more information about these rules.

Additionally, on February 12, 2018 (83 FR 5921), the EPA partially conditionally approved MDAQMD's reasonably available control technology (RACT) demonstrations for the 1997 8-hr ozone National Ambient Air Quality Standards (NAAQS) and the 2008 8-hr ozone NAAQS (also referred to as the 2006 and 2015 RACT SIPs) with respect to Rules 461, 462, and 463, based on commitments from MDAQMD and CARB to adopt and submit amendments to those rules to implement current RACT.[1] These rules were revised by the District and submitted to the EPA by CARB for incorporation into the SIP to ensure continued compliance with the CAA RACT requirement, and to fulfill commitments necessary for the EPA to convert the partial conditional approval of the District's 2006 and 2015 RACT SIPs into a full approval for the VOC source categories covered by Rules 461, 462, and 463.

## II. The EPA's Evaluation and Action

### *A. How is the EPA evaluating the rules?*

SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must require RACT for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source of VOCs in ozone nonattainment areas classified as Moderate or above (see CAA section 182(b)(2)). The MDAQMD regulates an ozone nonattainment area classified as Severe for the 1997, 2008, and 2015 8-hour ozone NAAQS (40 CFR 81.305). Therefore, these rules must implement RACT.

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).
4. ''Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks,'' EPA–450/2–77–036, December 1977.
5. ''Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks,'' EPA–450/2–78–047, December 1978.
6. ''Control of Volatile Organic Emissions from Bulk Gasoline Plants,'' EPA–450/2–77–035, December 1977.
7. ''Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals,'' EPA–450/2–77–026, October 1977.
8. ''Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems,'' EPA–450/2–78–051, December 1978.
9. ''Design Criteria for Stage I Vapor Control Systems-Gasoline Service Stations,'' EPA–450/R–75–102, November 1975.
10. ''Alternative Control Techniques Document: Volatile Organic Liquid Storage in Floating and Fixed Roof Tanks,'' EPA–453/R–94–001, January 1994.

### *B. Do the rules meet the evaluation criteria?*

These rules are consistent with CAA requirements and relevant guidance regarding enforceability, RACT, and SIP revisions, and fulfill the District's commitment to revise the rules to meet current RACT. The TSDs have more information on our evaluation.

### *C. EPA Recommendations To Further Improve the Rules*

The TSDs describe additional rule revisions that we recommend for the next time the local agency modifies the rules.

### *D. Public Comment and Proposed Action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rules because they fulfill all relevant requirements. In addition, we propose to convert the partial conditional approval of the District's RACT SIPs with respect to Rules 461, 462, and 463, as found in 40 CFR 52.248(d), to a full approval. We will accept comments from the public on this proposal until December 20, 2019. If we take final action to approve the submitted rules, our final action will incorporate these rules into the federally enforceable SIP.

## III. Incorporation by Reference

In this document, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the MDAQMD rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

## IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely

[1] Letter dated September 25, 2017, from Brad Poiriez, Air Pollution Control Officer, MDAQMD, to Alexis Strauss, Acting Regional Administrator, EPA, Region IX, and Richard Corey, Executive Officer, CARB; and letter dated October 3, 2017, from Jon Taylor, Acting Chief, Air Quality Planning and Science Division, CARB, to Alexis Strauss, Acting Regional Administrator, EPA, Region IX.

affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: November 4, 2019.

**Deborah Jordan,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 2019–25063 Filed 11–19–19; 8:45 am]

**BILLING CODE 6560–50–P**

# Notices

Federal Register
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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.

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Georgia Advisory Committee to the U.S. Commission on Civil Rights

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Georgia Advisory Committee (Committee) will hold a meeting via teleconference on Tuesday December 10, 2019, at 11:30 a.m. ET for the purpose of discussing civil rights concerns in the state.

**DATES:** The meeting will be held on Tuesday December 10, 2019, at 11:30 a.m. ET.

*Public Call Information:* Dial: 800–353–6461, Conference ID: 9102683.

**FOR FURTHER INFORMATION CONTACT:** Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311.

**SUPPLEMENTARY INFORMATION:** Members of the public can listen to the discussion. This meeting is available to the public through the above listed toll free number. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit Office, U.S. Commission on Civil Rights, 230 S. Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Georgia Advisory Committee link. Persons interested in the work of this Committee are also directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit office at the above email or street address.

**Agenda**

Welcome and Roll Call
Discussion: Civil Rights in Georgia
  The Olmstead Act (Disability Rights)
    Report Publication
  Other Civil Rights Concerns
Public Comment
Adjournment

Dated: November 15, 2019.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2019–25153 Filed 11–19–19; 8:45 am]

**BILLING CODE 6335–01–P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meetings of the Arkansas Advisory Committee to the U.S. Commission on Civil Rights

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Arkansas Advisory Committee (Committee) will hold a meeting on Tuesday November 26, 2019 at 12:00pm Central time. The Committee will discuss next steps in their study of civil rights and mass incarceration in the state.

**DATES:** The meeting will take place on Tuesday November 26, 2019 at 12:00pm Central time.

*Public Call Information*: Dial: 800–367–2403, Conference ID: 2736262.

**FOR FURTHER INFORMATION CONTACT:** Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311

**SUPPLEMENTARY INFORMATION:** Members of the public can listen to these discussions. These meetings are available to the public through the above call in number. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 230 S. Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Corrine Sanders at *csanders@usccr.gov.* Persons who desire additional information may contact the

Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Arkansas Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

**Agenda**

Welcome and Roll Call
Civil Rights in Arkansas: Mass Incarceration
Future Plans and Actions
Public Comment
Adjournment

*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 ensuring the Arkansas Advisory Committee completes its study in a timely manner.

Dated: November 15, 2019.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2019–25149 Filed 11–19–19; 8:45 am]

**BILLING CODE P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Utah Advisory Committee

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that the meeting of the Utah Advisory Committee (Committee) to the Commission will be held at 12:00 p.m. (Mountain Time) Friday, November 22, 2019. The purpose of this meeting is for the Committee to debrief their hearing on the gender wage gap.

**DATES:** The meeting will be held on Friday, November 22, 2019 at 12:00 p.m. MT.

*Public Call Information:* Dial: 800–353–6461; Conference ID: 7083423.

**FOR FURTHER INFORMATION CONTACT:** Ana Victoria Fortes (DFO) at *afortes@usccr.gov* or (213) 894–3437.

**SUPPLEMENTARY INFORMATION:** This meeting is available to the public through the following toll-free call-in number: 800–353–6461, conference ID number: 7083423. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. They may be faxed to the Commission at (213) 894–0508, or emailed Ana Victoria Fortes at *afortes@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (213) 894–3437.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meetings at *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzltAAA*.

Please click on the ''Committee Meetings'' tab. Records generated from these meetings may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meetings. Persons interested in the work of this Committee are directed to the Commission's website, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

**Agenda**

I. Welcome
II. Debrief of hearing
III. Next Steps
IV. Adjournment

*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 the federal government shutdown.

Dated: November 15, 2019.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2019–25151 Filed 11–19–19; 8:45 am]

**BILLING CODE 6335–01–P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the California Advisory Committee

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meeting of the California Advisory Committee (Committee) to the Commission will be held at 1:00 p.m. (Pacific Time) Monday, November 18, 2019. The purpose of the meeting will be to debrief their hearing on immigration enforcement impacting California children.

**DATES:** The meeting will be held on Monday, November 18, 2019 at 1:00 p.m. PT.

*Public Call Information:* Dial: 800–367–2403; Conference ID: 5241801.

**FOR FURTHER INFORMATION CONTACT:** Ana Victoria Fortes at *afortes@usccr.gov* or (213) 894–3437.

**SUPPLEMENTARY INFORMATION:** This meeting is available to the public through the following toll-free call-in number: 800–367–2403 conference ID number: 5241801. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. They may be faxed

to the Commission at (213) 894–0508, or emailed Ana Victoria Fortes at *afortes@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (213) 894–3437.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzkUAAQ.*

Please click on ''Committee Meetings'' tab. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's website, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

**Agenda**

I. Welcome
II. Debrief of heating
III. Next Steps
IV. Adjournment

*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 the federal government shutdown.

Dated: November 15, 2019.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2019–25150 Filed 11–19–19; 8:45 am]

**BILLING CODE 6335–01–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–471–807]**

### Certain Uncoated Paper From Portugal: Final Results of Antidumping Duty Administrative Review; 2017–2018

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) determines that Navigator S.A. made sales of certain uncoated paper (uncoated paper) from Portugal below normal value during the period of review (POR) March 1, 2017 through February 28, 2018.

**DATES:** Applicable November 20, 2019.

**FOR FURTHER INFORMATION CONTACT:** Rachel Greenberg or Robert Scully, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–0652 or (202) 482–0572 respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On May 17, 2019, Commerce published the *Preliminary Results.*[1] We invited interested parties to comment on the *Preliminary Results.* For events subsequent to the *Preliminary Results, see* the Issues and Decision Memorandum.[2] Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

**Scope of the Order**

The product covered by this order is uncoated paper from Portugal. The products are currently classifiable under subheadings 4802.56.1000, 4802.56.2000, 4802.56.3000, 4802.56.4000, 4802.56.6000, 4802.56.7020, 4802.56.7040, 4802.57.1000, 4802.57.2000, 4802.57.3000, and 4802.57.4000 of the Harmonized Tariff Schedule of the United States (HTSUS). Products subject to this order may also enter under HTSUS subheadings 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.5000, 4802.62.6020, 4802.62.6040, 4802.69.1000, 4802.69.2000, 4802.69.3000, 4811.90.8050 and 4811.90.9080. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.[3]

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on-file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and in the Central Records Unit (CRU), room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html/* The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

**Changes Since the Preliminary Results**

Based on a review of the record and comments received from interested parties, we have not recalculated the weighted-average dumping margin for The Navigator Company, S.A. (Navigator).[4]

**Final Results of the Review**

We determine that, for the period March 1, 2017 through February 28, 2018, the following weighted average dumping margin exists.

| Exporter/producer | Weighted-average dumping margin |
|---|---|
| The Navigator Company, S.A | 5.96 |

**Assessment Rate**

Pursuant to section 751(a)(2)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.212(b)(1), Commerce will determine, and U.S. Customs and Border Protections (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. We will calculate importer-specific assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for each importer's examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1).

For entries of subject merchandise during the POR produced by the respondent for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. We intend to issue liquidation instructions to CBP 15 days after publication of this notice.

**Cash Deposit Requirements**

The following cash deposit requirements will be effective upon

[1] *See Uncoated Paper from Portugal: Preliminary Results of Antidumping Duty Administrative Review; 2017–2018,* 84 FR 22435 (May 17, 2019) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2017–2018 Administrative Review of the Antidumping Duty Order on Certain Uncoated Paper from Portugal,'' dated concurrently with and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] For a full description of the scope, *see* the Issues and Decision Memorandum at 2.

[4] *See* Issues and Decision Memorandum at ''Discussion of the Issues.''

publication of the notice of final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Navigator will be the rate established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 7.80 percent, the all-others rate established in the investigation.[5] These cash deposit requirements, when imposed, shall remain in effect until further notice.

**Notification to Importers**

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Commerce's presumption that reimbursement of antidumping duties occurred and increase the subsequent assessment of the antidumping duties by the amount of the antidumping duties reimbursement.

**Notification to Interested Parties**

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: November 13, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

**Appendix**

**List of Topics Discussed in the Issues and Decision Memorandum**



[FR Doc. 2019–25046 Filed 11–19–19; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–549–502]**

### Circular Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2017–2018

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) finds that circular welded carbon steel pipes and tubes (pipes and tubes) from Thailand are being, or are likely to be sold, at less than normal value during the period of review (POR), March 1, 2017 through February 28, 2018.

**DATES:** Applicable November 20, 2019.

**FOR FURTHER INFORMATION CONTACT:** Toni Page, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1398.

**SUPPLEMENTARY INFORMATION:**

**Background**

On May 17, 2019, Commerce published the *Preliminary Results* of the administrative review of the antidumping duty order on pipes and tubes from Thailand.[1] The review covers one mandatory respondent, Saha Thai Steel Pipe (Public) Company, Ltd. (Saha Thai), and twelve non-selected producers/exporters of the subject merchandise. For a discussion of events since the *Preliminary Results* were published, see the accompanying Issues and Decision Memorandum.[2]

**Scope of the Order**

The products covered by this review are certain circular welded carbon steel pipes and tubes from Thailand. For a full description of the scope, see the Issues and Decision Memorandum dated concurrently with and hereby adopted by this notice.[3]

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Issues and Decision Memorandum.[4] A list of issues raised, and to which we responded, in the Issues and Decision Memorandum, is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on-file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and in the Central Records Unit (CRU), room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html*. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

**Final Determination of No Shipments**

Commerce preliminarily found that three companies under review, Expeditors Ltd. (Expeditors); K Line Logistics (K Line); and Panalpina World Transport Ltd. (Panalpina), each had no shipments during the POR. We received no further comments or information that refute these findings. Thus, Commerce

[5] *See Certain Uncoated Paper from Portugal: Final Determination of Sales at Less than Fair Value and Final Negative Determination of Critical Circumstances,* 81 FR 3105 (January 20, 2016).

[1] *See Circular Welded Carbon Steel Pipes and Tubes from Thailand: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2017–2018,* 84 FR 22450 (May 17, 2019) and accompanying Preliminary Decision Memorandum (*Preliminary Results*).

[2] *See* Memorandum, ''Circular Welded Carbon Steel Pipes and Tubes from Thailand: Decision Memorandum for the Final Results of Antidumping Duty Administrative Review; 2017–2018,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *Id.*

[4] *Id.*

continues to find that Expeditors, K Line, and Panalpina had no reviewable transactions during the POR.

**Changes Since the Preliminary Results**

Based on a review of the record, information obtained from verification, and comments received from interested parties, we have made certain changes to Saha Thai's weighted-average dumping margin. For further discussion, *see* the Issues and Decision Memorandum.

**Final Results of the Administrative Review**

We determine that the following weighted-average dumping margins exists for the period March 1, 2017 through February 28, 2018:

| Producer or exporter | Weighted-average dumping margin (percent) |
|---|---|
| Saha Thai Steel Pipe (Public) Company, Ltd | 5.15 |
| Apex International Logistics | 5.15 |
| Aquatec Maxcon Asia | 5.15 |
| Asian Unity Part Co., Ltd | 5.15 |
| CSE Technologies Co., Ltd | 5.15 |
| Pacific Pipe Public Company Limited (also known as Pacific Pipe Company) | 5.15 |
| Pacific Pipe and Pump | 5.15 |
| Polypipe Engineering Co., Ltd | 5.15 |
| Siam Fittings Co., Ltd | 5.15 |
| Siam Steel Pipe Co., Ltd | 5.15 |
| Thai Malleable Iron and Steel | 5.15 |
| Thai Premium Pipe Co., Ltd | 5.15 |
| Vatana Phaisal Engineering Company | 5.15 |

**Assessment Rates**

Pursuant to section 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.212(b)(1), Commerce determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise, in accordance with the final results of this review. Commerce intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of the final results of review.

**Cash Deposit Requirements**

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the companies under review will be equal to the weighted-average dumping margin established in the final results of this review; (2) for previously reviewed or investigated companies not listed above in the Final Results of Review, including those for which Commerce may determine had no shipments during the POR, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review or another completed segment of this proceeding, but the manufacturer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previously completed segment of this proceeding, then the cash deposit rate will be the ''all-others'' rate of 15.67 percent established in the less-than-fair-value investigation.[5] These deposit requirements, when imposed, shall remain in effect until further notice.

**Notification to Importers**

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

**Administrative Protective Order**

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(5).

[5] *See Antidumping Duty Order; Circular Welded Carbon Steel Pipes and Tubes from Thailand,* 51 FR 8341 (March 11, 1986).

Dated: November 13, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

**Appendix**

**List of Topics Discussed in the Issues and Decision Memorandum**



[FR Doc. 2019–25048 Filed 11–19–19; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–588–869]**

### Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products From Japan: Final Results of the Antidumping Duty Administrative Review and Final Determination of No Shipments; 2017–2018

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) finds that one of the producers/exporters subject to this administrative review did not make sales of subject merchandise at less than normal value and the other made no shipments of subject merchandise during the period of review (POR), May 1, 2017 through April 30, 2018.

**DATES:** Applicable November 20, 2019.

**FOR FURTHER INFORMATION CONTACT:** Ian Hamilton, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4798.

**SUPPLEMENTARY INFORMATION:**

**Background**

This review covers two producers/exporters, Toyo Kohan Co., Ltd. (Toyo Kohan) and Nippon Steel & Sumitomo Metal Corporation (Nippon Steel). On July 17, 2019, Commerce published the *Preliminary Results.*[1] On August 16,

[1] *See Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan: Preliminary Results of the Antidumping Duty Administrative*

2019, we received a case brief from Thomas Steel Strip Corporation, the petitioner in this administrative review.[2] On August 26, 2019, we received a rebuttal brief from Toyo Kohan.[3] Commerce conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

**Scope of the Order**

The merchandise subject to the order is diffusion-annealed, nickel-plated flat-rolled steel products from Japan. The product is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7212.50.0000 and 7210.90.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description remains dispositive. For a complete description of the scope of the order, *see* Appendix I of this notice.

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs are listed in Appendix II to this notice and addressed in the Issues and Decision Memorandum.[4] Interested parties can find a complete discussion of these issues and the corresponding recommendations in this public memorandum, which is on file electronically via Enforcement and Compliance's Antidumping (AD) and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and ACCESS is also available to all interested parties in the Central Records Unit, Room B8024, of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

**Changes Since the Preliminary Results**

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we made changes to the preliminary margin calculations for Toyo Kohan.[5] However, as a result of these revisions, the weighted-average margin for Toyo Kohan did not change from that presented in the *Preliminary Results.*

**Determination of No Shipments**

As noted in the *Preliminary Results,* we received a properly-filed no shipment claim from Nippon Steel and confirmed the company's claim with U.S. Customs and Border Protection (CBP).[6] We received no comments from interested parties with respect to this claim. Therefore, because the record indicates that Nippon Steel did not export subject merchandise to the United States during the POR, we continue to find that Nippon Steel had no shipments during the POR.

**Final Results of the Review**

We are assigning the following weighted-average dumping margin to the firm listed below for the period May 1, 2017 through April 30, 2018:

| Producer or exporter | Weighted-average dumping margin (percent) |
|---|---|
| Toyo Kohan Co., Ltd | 0.00 |

**Disclosure of Calculations**

We intend to disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding, in accordance with 19 CFR 351.224(b).

**Assessment Rates**

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, AD duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

Pursuant to 19 CFR 351.212(b)(1), we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of the sales for which entered value was reported. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to AD duties. The final results of this review shall be the basis for the assessment of AD duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[7]

Commerce's ''reseller policy'' will apply to entries of subject merchandise during the POR produced by Toyo Kohan for which Toyo Kohan did not know that the merchandise it sold to the intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[8]

We intend to issue liquidation instructions to CBP 15 days after publication of the final results of this review.

**Cash Deposit Requirements**

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Toyo Kohan will be equal to the weighted-average dumping margin that is established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for companies not participating in this review, the cash deposit rate will continue to be the company-specific cash deposit rate published for the most recently completed segment; (3) if the exporter is not a firm covered in this review, or the original less than-fair-value (LTFV) investigation, but the producer is, the cash deposit rate will be the cash deposit rate established for the most recently completed segment for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 45.42 percent, the all-others rate

*Review and Preliminary Determination of No Shipments; 2017–2018,* 84 FR 34131 (July 17, 2019) (*Preliminary Results*).

[2] *See* Petitioner's Case Brief, ''Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan: Case Brief of Thomas Steel Strip Corporation,'' dated August 16, 2019.

[3] *See* Toyo Kohan's Rebuttal Brief, ''Toyo Kohan's Rebuttal Brief, Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan,'' dated August 26, 2019.

[4] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2017–2018 Administrative Review of the Antidumping Duty Order on Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[5] *See* Issues and Decision Memorandum at 2.

[6] *See Preliminary Results,* 84 FR at 34131.

[7] *See* section 751(a)(2)(C) of the Act.

[8] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

established in the LTFV investigation.[9] These deposit requirements, when imposed, shall remain in effect until further notice.

**Notification to Importers**

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of AD duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of AD duties occurred and the subsequent assessment of double AD duties.

**Administrative Protective Order**

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

**Notification to Interested Parties**

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: November 14, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

**Appendix I**

The diffusion-annealed, nickel-plated flat-rolled steel products included in this order are flat-rolled, cold-reduced steel products, regardless of chemistry; whether or not in coils; either plated or coated with nickel or nickel-based alloys and subsequently annealed (*i.e.,* ''diffusion-annealed''); whether or not painted, varnished or coated with plastics or other metallic or nonmetallic substances; and less than or equal to 2.0 mm in nominal thickness. For purposes of this order, ''nickel-based alloys'' include all nickel alloys with other metals in which nickel accounts for at least 80 percent of the alloy by volume.

Imports of merchandise included in the scope of this order are classified primarily under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7212.50.0000 and 7210.90.6000, but may also be classified under HTSUS subheadings 7210.70.6090, 7212.40.1000, 7212.40.5000, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.90.0010, 7220.90.0015, 7225.99.0090, or 7226.99.0180. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

**Appendix II**

**List of Topics Discussed in the IDM**



[FR Doc. 2019–25154 Filed 11–19–19; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–427–828]**

### Certain Carbon and Alloy Steel Cut-to-Length Plate From France: Final Results of Antidumping Duty Administrative Review; 2016–2018

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) finds that the producer/exporter subject to this administrative review made sales of subject merchandise at less than normal value during the period of review (POR) November 14, 2016 through April 30, 2018.

**DATES:** Applicable November 20, 2019.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Janz or Terre Keaton Stefanova, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2972 or (202) 482–1280, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

This review covers one producer/exporter, Industeel France S.A.S (Industeel). On July 17, 2019, Commerce published the *Preliminary Results.*[1] We invited interested parties to comment on the *Preliminary Results.* On August 16, 2019, we received case briefs from SSAB Enterprises, LLC (the petitioner) and Industeel.[2] On August 21, 2019, we received rebuttal briefs from the petitioner and Industeel.[3] Commerce conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

**Scope of the Order**

The merchandise subject to the order is certain carbon and alloy steel cut-to-length plate. The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7225.40.1110, 7225.40.1180, 7225.40.3005, 7225.40.3050, 7226.20.0000, and 7226.91.5000. Although the HTSUS numbers are provided for convenience and for customs purposes, the written product description remains dispositive. For a complete description of the scope of the order, *see* Appendix I of this notice.

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs are listed in Appendix II to this notice and addressed in the Issues and Decision Memorandum.[4] Interested parties can find a complete discussion of these issues and the corresponding recommendations in this public memorandum, which is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and available to all interested parties in the Central

[9] *See Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan: Antidumping Duty Order,* 79 FR 30816 (May 29, 2014).

[1] *See Certain Carbon and Alloy Steel Cut-to-Length Plate from France: Preliminary Results of Antidumping Duty Administrative Review; 2016–2018,* 84 FR 34125 (July 17, 2019) (*Preliminary Results*).

[2] *See* Petitioner's Case Brief, ''Certain Carbon and Alloy Steel Cut-to-Length Plate from France: Petitioner's Case Brief,'' dated August 16, 2019; *see also* Industeel's Case Brief, ''Certain Carbon and Alloy Steel Cut-to-Length Plate from France: Case Brief of Industeel France S.A.,'' dated August 16, 2019.

[3] *See* Petitioner's Rebuttal Brief, ''Certain Carbon and Alloy Steel Cut-to-Length Plate from France: Petitioner's Rebuttal Brief,'' dated August 21, 2019; *see also* Industeel's Rebuttal Brief, ''Certain Carbon and Alloy Steel Cut-to-Length Plate from France: Rebuttal Brief of Industeel France S.A.,'' dated August 21, 2019.

[4] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2016–2018 Administrative Review of the Antidumping Duty Order on Certain Carbon and Alloy Steel Cut-To-Length Plate from France,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Records Unit, room B8024, of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

**Changes Since the Preliminary Results**

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we made certain changes to the preliminary weighted-average dumping margin for Industeel.[5]

**Final Results of the Review**

We are assigning the following weighted-average dumping margin to the firm listed below for the period November 14, 2016 through April 30, 2018:

| Producer or exporter | Weighted-average dumping margin (percent) |
|---|---|
| Industeel France S.A.S ..... | 4.83 |

**Disclosure of Calculations**

We intend to disclose the calculations performed for these final results within five days of the date of publication of this notice to parties in this proceeding, in accordance with 19 CFR 351.224(b).

**Assessment Rates**

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

Pursuant to 19 CFR 351.212(b)(1), we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of those sales. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. We further will instruct CBP to take into account the ''provisional measures deposit cap,'' in accordance with 19 CFR 351.212(d). The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review.[6]

Commerce's ''reseller policy'' will apply to entries of subject merchandise during the POR produced by Industeel for which Industeel did not know that the merchandise it sold to the intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[7]

We intend to issue liquidation instructions to CBP 15 days after publication of the final results of this review.

**Cash Deposit Requirements**

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Industeel will be equal to the weighted-average dumping margin that is established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for companies not participating in this review, the cash deposit rate will continue to be the company-specific cash deposit rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, or the original less-than-fair-value (LTFV) investigation, but the producer is, the cash deposit rate will be the cash deposit rate established for the most recently completed segment for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 6.15 percent, the all-others rate established in the LTFV investigation.[8] These deposit requirements, when imposed, shall remain in effect until further notice.

**Notification to Importers**

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

**Administrative Protective Order**

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

**Notification to Interested Parties**

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: November 14, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

**Appendix I**

The products covered by this order are certain carbon and alloy steel hot-rolled or forged flat plate products not in coils, whether or not painted, varnished, or coated with plastics or other non-metallic substances (cut-to-length plate). Subject merchandise includes plate that is produced by being cut-to-length from coils or from other discrete length plate and plate that is rolled or forged into a discrete length. The products covered include (1) Universal mill plates (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1,250 mm, and of a thickness of not less than 4 mm, which are not in coils and without patterns in relief), and (2) hot-rolled or forged flat steel products of a thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are not in coils, whether or not with patterns in relief. The covered products described above may be rectangular, square, circular or other shapes and include products of either rectangular or

[5] *See* IDM at 2.

[6] *See* section 751(a)(2)(C) of the Act.

[7] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[8] *See Certain Carbon and Alloy Steel Cut-To-Length Plate from Austria, Belgium, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, and Taiwan: Amended Final Affirmative Antidumping Determinations for France, the Federal Republic of Germany, the Republic of Korea, and Taiwan, and Antidumping Duty Orders,* 82 FR 24096, 24098 (May 25, 2017).

non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process, *i.e.,* products which have been ''worked after rolling'' (*e.g.,* products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above, the following rules apply:

(1) Except where otherwise stated where the nominal and actual thickness or width measurements vary, a product from a given subject country is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.,* the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this order are products in which: (1) Iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

Subject merchandise includes cut-to-length plate that has been further processed in the subject country or a third country, including but not limited to pickling, oiling, levelling, annealing, tempering, temper rolling, skin passing, painting, varnishing, trimming, cutting, punching, beveling, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the cut-to-length plate.

All products that meet the written physical description, are within the scope of this order unless specifically excluded or covered by the scope of an existing order. The following products are outside of, and/or specifically excluded from, the scope of this order:

(1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances;

(2) military grade armor plate certified to one of the following specifications or to a specification that references and incorporates one of the following specifications:

- MIL–A–12560,
- MIL–DTL–12560H,
- MIL–DTL–12560J,
- MIL–DTL–12560K,
- MIL–DTL–32332,
- MIL–A–46100D,
- MIL–DTL–46100–E,
- MIL–46177C,
- MIL–S–16216K Grade HY80,
- MIL–S–16216K Grade HY100,
- MIL–S–24645A HSLA–80;
- MIL–S–24645A HSLA–100,
- T9074–BD–GIB–010/0300 Grade HY80,
- T9074–BD–GIB–010/0300 Grade HY100,
- T9074–BD–GIB–010/0300 Grade HSLA80,
- T9074–BD–GIB–010/0300 Grade HSLA100, and
- T9074–BD–GIB–010/0300 Mod. Grade HSLA115,

except that any cut-to-length plate certified to one of the above specifications, or to a military grade armor specification that references and incorporates one of the above specifications, will not be excluded from the scope if it is also dual- or multiple-certified to any other non-armor specification that otherwise would fall within the scope of this order;

(3) stainless steel plate, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;

(4) CTL plate meeting the requirements of ASTM A–829, Grade E 4340 that are over 305 mm in actual thickness;

(5) Alloy forged and rolled CTL plate greater than or equal to 152.4 mm in actual thickness meeting each of the following requirements:

(a) Electric furnace melted, ladle refined & vacuum degassed and having a chemical composition (expressed in weight percentages):

- Carbon 0.23–0.28,
- Silicon 0.05–0.20,
- Manganese 1.20–1.60,
- Nickel not greater than 1.0,
- Sulfur not greater than 0.007,
- Phosphorus not greater than 0.020,
- Chromium 1.0–2.5,
- Molybdenum 0.35–0.80,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) With a Brinell hardness measured in all parts of the product including mid thickness falling within one of the following ranges:

(i) 270–300 HBW,

(ii) 290–320 HBW, or

(iii) 320–350HBW;

(c) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.0, C not exceeding 0.5, D not exceeding 1.5; and

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 2 mm flat bottom hole;

(6) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, Ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.23–0.28,
- Silicon 0.05–0.15,
- Manganese 1.20–1.50,
- Nickel not greater than 0.4,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.20–1.50,
- Molybdenum 0.35–0.55,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.5, C not exceeding 1.0, D not exceeding 1.5;

(c) Having the following mechanical properties:

(i) With a Brinell hardness not more than 237 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 75ksi min and UTS 95ksi or more, Elongation of 18% or more and Reduction of area 35% or more; having charpy V at −75 degrees F in the longitudinal direction equal or greater than 15 ft. lbs (single value) and equal or greater than 20 ft. lbs (average of 3 specimens) and conforming to the requirements of NACE MR01–75; or

(ii) With a Brinell hardness not less than 240 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 90 ksi min and UTS 110 ksi or more, Elongation of 15% or more and Reduction of area 30% or more; having charpy V at −40 degrees F in the longitudinal direction equal or greater than 21 ft. lbs (single value) and equal or greater than 31 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301;

(7) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.25–0.30,
- Silicon not greater than 0.25,
- Manganese not greater than 0.50,
- Nickel 3.0–3.5,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.0–1.5,
- Molybdenum 0.6–0.9,
- Vanadium 0.08 to 0.12,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm.

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.0(t) and 0.5(h), B not exceeding 1.5(t) and 1.0(h), C not exceeding 1.0(t) and 0.5(h), and D not exceeding 1.5(t) and 1.0(h);

(c) Having the following mechanical properties: A Brinell hardness not less than 350 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 145ksi or more and UTS 160ksi or more, Elongation of 15% or more and Reduction of area 35% or more; having charpy V at −40 degrees F in the transverse direction equal or greater than 20 ft. lbs (single value) and equal or greater than 25 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301.

The products subject to the order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7225.40.1110, 7225.40.1180, 7225.40.3005, 7225.40.3050, 7226.20.0000, and 7226.91.5000.

The products subject to the order may also enter under the following HTSUS item

numbers: 7208.40.6060, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.19.1500, 7211.19.2000, 7211.19.4500, 7211.19.6000, 7211.19.7590, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.10.0000, 7214.30.0010, 7214.30.0080, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7225.11.0000, 7225.19.0000, 7225.40.5110, 7225.40.5130, 7225.40.5160, 7225.40.7000, 7225.99.0010, 7225.99.0090, 7226.11.1000, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.0500, 7226.91.1530, 7226.91.1560, 7226.91.2530, 7226.91.2560, 7226.91.7000, 7226.91.8000, and 7226.99.0180.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the order is dispositive.

## Appendix II

**List of Topics Discussed in the Issues and Decision Memorandum**



[FR Doc. 2019–25155 Filed 11–19–19; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–533–890]**

### Certain Quartz Surface Products From India: Amended Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination With Final Antidumping Duty Determination

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) is amending the preliminary affirmative countervailing duty determination on certain quartz surface products from India to correct significant ministerial errors.

**DATES:** Applicable November 20, 2019.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Moore, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3692.

**SUPPLEMENTARY INFORMATION:**

#### Background

In accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.205(b), on October 11, 2019, Commerce published its preliminary affirmative countervailing duty determination on certain quartz surface products from India.[1] On October 16, 2019, Cambria Company LLC (the petitioner) submitted comments alleging significant ministerial errors in our preliminary determination with respect to Pokarna Engineered Stone Limited (Pokarna).[2] No other party submitted ministerial error comments. However, as noted in the amended preliminary memorandum, interested parties submitted ministerial rebuttal comments, which we have not considered in addressing the petitioner's ministerial error allegations, consistent with 19 CFR 351.224(c)(3).[3]

#### Period of Investigation

The period of investigation (POI) is April 1, 2018 through March 31, 2019.

#### Scope of the Investigation

The products covered by this investigation are quartz surface products from India. For a complete description of the scope of this investigation, *see* the Appendix to this notice.

#### Analysis of a Significant Ministerial Error Allegation

Commerce will analyze any comments received and, if appropriate, correct any significant ministerial error by amending the preliminary determination according to 19 CFR 351.224(e). A ministerial error is defined in 19 CFR 351.224(f) as ''an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.'' [4] A significant ministerial error is defined as a ministerial error, the correction of which, singly or in combination with other errors, would result in: (1) A change of at least five absolute percentage points in, but not less than 25 percent of, the countervailable subsidy rate calculated in the original preliminary determination; or (2) a difference between a countervailable subsidy rate of zero or *de minimis* and a countervailable subsidy rate greater than *de minimis* or vice versa.[5]

#### Amended Preliminary Determination

Pursuant to 19 CFR 351.224(e) and (g)(1), Commerce is amending the *Preliminary Determination* to reflect the correction of ministerial errors made in the calculation of the countervailing duty subsidy rate for Pokarna.[6]

Commerce finds that the petitioner's claimed error is a significant ministerial error within the meaning of 19 CFR 351.224(g), because Pokarna's countervailing duty subsidy rate increased from 1.90 to 81.31 percent for the allotted land for less than adequate renumeration (LTAR) program. In addition, correction of a ministerial error for Pokarna Limited's export-oriented unit program increased the countervailing subsidy rate from 0.13 percent to 0.19 percent. As a result of the correction of these ministerial errors, which in combination exceed the specified threshold, *i.e.,* a change of at least five absolute percentage points in, but not less than 25 percent of, the subsidy rate calculated in the original *Preliminary Determination* is significant. Accordingly, as part of this amended preliminary determination, Commerce will amend the estimated subsidy rate of 83.79 percent calculated for Pokarna. Further, in the *Preliminary Determination,* Commerce assigned Pokarna's rate as the rate for all other producers and exporters because the rate for Antique Marbonite, the other mandatory respondent was *de minimis.* Thus, Pokarna's amended estimated subsidy rate of 83.79 percent will be assigned as the rate for all other producers and exporters. Antique Marbonite's rate of 1.57 percent remains unchanged.

[1] *See Certain Quartz Surface Products from India: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, In Part, and Alignment of Final Determination with Final Antidumping Duty Determination,* 84 FR 54838 (October 11, 2019) (*Preliminary Determination*).

[2] *See* Petitioner's Letter, ''Quartz Surface Products from India: Ministerial Errors in the Preliminary Determination,'' dated October 15, 2019 (Petitioner's Ministerial Errors).

[3] *See* Memorandum, ''Countervailing Duty Investigation of Certain Quartz Surface Products from India: Allegation of Ministerial Errors in the Preliminary Affirmative Determination,'' dated concurrently with this notice (Amended Preliminary Determination Memo).

[4] *See* section 735(e) of the Act.

[5] *See* 19 CFR 351.224(g).

[6] *See* Amended Preliminary Determination Memo.

**Amended Preliminary Determination**

| Company | Subsidy rate *Ad Valorem* (percent) |
|---|---|
| Antique Marbonite Private Limited, India (Antique Marbonite)[7] | *[8] 1.57 |
| Pokarna Engineered Stone Limited (Pokarna)[9] | 83.79 |
| All Others | 83.79 |

* *De minimis.* India is considered a developing country and has a *de minimis* rate of 2.0 percent.

## Amended Cash Deposits and Suspension of Liquidation

The collection of cash deposits and suspension of liquidation will be revised according to the rates calculated in this amended preliminary determination. Because Pokarna's amended rate and the consequent amended rate for all other producers and exporters result in increased cash deposits, these amended rates will be effective on the publication date of this amended preliminary determination. Because the subsidy rate for Antique Marbonite is *de minimis,* Commerce is directing CBP not to suspend liquidation of entries of the merchandise produced by Antique Marbonite and exported by Antique Marbonite, Antique Trust, Prism Johnson, or Shivam. However, entries of subject merchandise in any other producer/exporter combination, *e.g.,* merchandise produced by a third party and exported by Antique Marbonite, Antique Trust, Prism Johnson, or Shivam, or produced by Antique Marbonite and exported by a third party, are subject to the cash deposit requirements at the all-others rate.

As Commerce preliminarily found that critical circumstances exist for imports of subject merchandise from all other producers and exporters, the amended rate for these entities will be effective on the publication date of this amended preliminary determination. Entities subject to critical circumstances in the *Preliminary Determination* (*i.e.,* all other producers and exporters) will continue to be subject to a rate of 4.32 percent effective July 7, 2019, *i.e.,* 90 days before the publication of the *Preliminary Determination,* until the effective date of this amended preliminary determination.

## Disclosure

We intend to disclose the calculations performed to parties in this proceeding within five days after public announcement of the amended preliminary determination, in accordance with 19 CFR 351.224.

## International Trade Commission Notification

In accordance with section 733(f) of the Act, we will notify the International Trade Commission of our amended preliminary determination.

## Notification to Interested Parties

This amended preliminary determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.224(e).

Dated: November 13, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

## Appendix

### Scope of the Investigation

The merchandise covered by the investigation is certain quartz surface products. Quartz surface products consist of slabs and other surfaces created from a mixture of materials that includes predominately silica (*e.g.,* quartz, quartz powder, cristobalite, glass powder) as well as a resin binder (*e.g.,* an unsaturated polyester). The incorporation of other materials, including, but not limited to, pigments, cement, or other additives does not remove the merchandise from the scope of the investigation. However, the scope of the investigation only includes products where the silica content is greater than any other single material, by actual weight. Quartz surface products are typically sold as rectangular slabs with a total surface area of approximately 45 to 60 square feet and a nominal thickness of one, two, or three centimeters. However, the scope of this investigation includes surface products of all other sizes, thicknesses, and shapes. In addition to slabs, the scope of this investigation includes, but is not limited to, other surfaces such as countertops, backsplashes, vanity tops, bar tops, work tops, tabletops, flooring, wall facing, shower surrounds, fire place surrounds, mantels, and tiles. Certain quartz surface products are covered by the investigation whether polished or unpolished, cut or uncut, fabricated or not fabricated, cured or uncured, edged or not edged, finished or unfinished, thermoformed or not thermoformed, packaged or unpackaged, and regardless of the type of surface finish.

In addition, quartz surface products are covered by the investigation whether or not they are imported attached to, or in conjunction with, non-subject merchandise such as sinks, sink bowls, vanities, cabinets, and furniture. If quartz surface products are imported attached to, or in conjunction with, such non-subject merchandise, only the quartz surface product is covered by the scope.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise fabricated in a third country, including by cutting, polishing, curing, edging, thermoforming, attaching to, or packaging with another product, or any other finishing, packaging, or fabrication that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the quartz surface products.

The scope of the investigation does not cover quarried stone surface products, such as granite, marble, soapstone, or quartzite. Specifically excluded from the scope of the investigation are crushed glass surface products. Crushed glass surface products must meet each of the following criteria to qualify for this exclusion: (1) The crushed glass content is greater than any other single material, by actual weight; (2) there are pieces of crushed glass visible across the surface of the product; (3) at least some of the individual pieces of crushed glass that are visible across the surface are larger than 1 centimeter wide as measured at their widest cross-section (''Glass Pieces''); and (4) the distance between any single Glass Piece and the closest separate Glass Piece does not exceed three inches.

The products subject to the scope are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under the following subheading: 6810.99.0010. Subject merchandise may also enter under subheadings 6810.11.0010, 6810.11.0070, 6810.19.1200, 6810.19.1400, 6810.19.5000, 6810.91.0000, 6810.99.0080, 6815.99.4070, 2506.10.0010, 2506.10.0050, 2506.20.0010, 2506.20.0080, and 7016.90.1050. The HTSUS subheadings set forth above are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

[FR Doc. 2019–25042 Filed 11–19–19; 8:45 am]

**BILLING CODE 3510–DS–P**

[7] Commerce preliminarily found the following companies to be cross-owned with Antique Marbonite Private Limited, India: Antique Granito Shareholders Trust (Antique Trust), Prism Johnson Limited (Prism Johnson), and Shivam Enterprises (Shivam). *See Preliminary Determination,* 84 FR at 54839.

[8] This rate remains unchanged from the *Preliminary Determination.*

[9] Commerce found the following company to be cross-owned with Pokarna: Pokarna Limited. *See Preliminary Determination,* 84 FR at 54839.

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## Marine Mammals and Endangered Species

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

**ACTION:** Notice; issuance of permits and permit amendments.

**SUMMARY:** Notice is hereby given that permits or permit amendments have been issued to the following entities under the Marine Mammal Protection

Act (MMPA) and the Endangered Species Act (ESA), as applicable.

**ADDRESSES:** The permits and related documents are available for review upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone: (301) 427–8401; fax: (301) 713–0376.

**FOR FURTHER INFORMATION CONTACT:** Shasta McClenahan (Permit No. 18786–04), Sara Young (Permit No. 23197) and Carrie Hubard (Permit No. 23117); at (301) 427–8401.

**SUPPLEMENTARY INFORMATION:** Notices were published in the **Federal Register** on the dates listed below that requests for a permit or permit amendment had been submitted by the below-named applicants. To locate the **Federal Register** notice that announced our receipt of the application and a complete description of the research, go to *www.federalregister.gov* and search on the permit number provided in the table below.

| Permit No. | RIN | Applicant | Previous **Federal Register** notice | Permit or amendment issuance date |
|---|---|---|---|---|
| 18786–04 ..... | 0648–XD900 | NMFS Office of Protected Resources, Marine Mammal Health and Stranding Response Program, 1315 East West Highway, Silver Spring, MD 20910 (Responsible Party: Teri Rowles, D.V.M., Ph.D.). | 84 FR 21332; May 14, 2019 ..... | October 3, 2019. |
| 23117 ..... | 0648–XR031 | BBC Worldwide Americas, 1120 Avenue of the Americas, New York, NY 10036 (Responsible Party: Orla Doherty). | 84 FR 45997; September 3, 2019 | October 24, 2019. |
| 23197 ..... | 0648–XR038 | Wildstar Films, South Parade Mansions, 71 Oakfield Road, Bristol BS8 2BB, U.K. (Responsible Party: Hugh Pearson). | 84 FR 47499; September 10, 2019 | October 17, 2019. |

In compliance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activities proposed for Permit Nos. 23117 and 23197 are categorically excluded from the requirement to prepare an environmental assessment (EA) or environmental impact statement.

For Permit No. 18786–04, an EA was prepared for the original permit in compliance with NEPA, to examine whether significant environmental impacts could result from issuance of the proposed scientific research permit. Based on the analyses in the EA, NMFS determined that issuance of the original permit would not significantly impact the quality of the human environment and that preparation of an environmental impact statement was not required. That determination was documented in a Finding of No Significant Impact (FONSI), signed on June 29, 2015. The activities in the amendment are consistent with the analyses in the original EA and no additional NEPA analysis was required for the issuance of this amendment. The original EA and FONSI are available upon request.

As required by the ESA, as applicable, issuance of these permit was based on a finding that such permits: (1) Were applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) are consistent with the purposes and policies set forth in Section 2 of the ESA.

**Authority:** The requested permits have been issued under the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), as applicable.

Dated: November 14, 2019.

**Julia Marie Harrison,**

*Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2019–25078 Filed 11–19–19; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XU005]**

### Marine Fisheries Advisory Committee

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

**ACTION:** Notice; request for nominations.

**SUMMARY:** Nominations are being sought for appointment to a new task force of the Marine Fisheries Advisory Committee (MAFAC) to support its advisory work for the Secretary of Commerce on living marine resource matters. The task force will provide expert advice on the generation, delivery, and use of electronically reported data from private recreational anglers to assist NMFS in fulfilling its mission activities. NMFS will appoint the members in consultation with MAFAC and they will serve for a term of up to two (2) years. The terms will begin in Spring 2020.

**DATES:** Nominations must be postmarked or have an email date stamp on or before January 21, 2020.

**ADDRESSES:** Nominations should be sent to Heidi Lovett, NMFS Office of Policy, 1315 East West Highway, Silver Spring, MD 20910 or to *heidi.lovett@noaa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Heidi Lovett, (301) 427–8046; email: *heidi.lovett@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** MAFAC is the only Federal advisory committee with the responsibility to advise the Secretary of Commerce (Secretary) on all matters concerning living marine resources that are the responsibility of the Department of Commerce. MAFAC is establishing a Task Force to provide it, and subsequently NMFS, expert advice on the generation, delivery, and use of electronically reported data from private recreational anglers to assist NOAA Fisheries in fulfilling its mission activities. The scope of the Recreational Electronic Reporting Task Force will fall within the objectives and scope of the MAFAC.

#### Recreational Electronic Reporting Task Force

This Recreational Electronic Reporting Task Force is being created to provide MAFAC, and subsequently NMFS, advice on fulfilling the agency's central role in providing useable high

quality, accurate data on recreational fisheries. Task Force advice will support and contribute to the development of an Agency roadmap to advance and guide implementation, where appropriate, of electronic data collection in private recreational fisheries (both shore and boat mode angling). The initial actions for consideration by the Task Force include:

- Identify and prioritize known data gaps relative to NOAA Fisheries' role in supporting management of marine recreational fisheries that could be addressed through mandatory or voluntary private recreational angler electronic reporting programs.
- Identify realistic and achievable goals for voluntary (also known as opt-in) and mandatory electronic reporting for private recreational anglers, as well as associated challenges and solutions, where identifiable.
- Provide recommendations on how the aforementioned goals could be best supported or achieved by NOAA Fisheries.

The Task Force will report to MAFAC and will not provide advice or work products directly to NMFS. Recommendations generated by this Task Force's efforts will not result in any regulatory decision, or obligate any party to undertake certain activities.

This Task Force will consist of approximately 10 individuals who have demonstrated subject matter expertise and experience in one or more relevant fields including, but not limited to, sampling statistics, survey methodologies, citizen science, fishery stock assessment science, electronic monitoring or reporting, fisheries management, database development and/or management, mobile technology applications (apps), and marine recreational fishing. It is not intended that all Task Force members be scientists or researchers; however, other members should have experience with issues related to the generation, delivery, and or use of opt-in electronic data, public attitudes about participating in such programs, or similar ecological self-reporting data systems from which parallels can be drawn. In addition to external members, at least one member of MAFAC will serve on the Task Force.

It is intended that the Task Force membership represent a diversity of the overall expertise and experience being sought. It will be established for an initial period of two (2) years with a possibility of extending that term if deemed necessary by NMFS and MAFAC. Task Force members should be able to fulfill the time commitments required for up to one meeting per month (mostly by webinar or teleconference and potentially in-person), and interim work as necessary. Members of the Task Force are not compensated for their services, but will upon request be provided travel and per diem expenses as authorized by 5 U.S.C. 5701 *et seq.* To view the full Recreational Electronic Reporting Task Force Terms of Reference, please visit *https://www.fisheries.noaa.gov/national/partners/marine-fisheries-advisory-committee-subcommittees-and-task-forces#task-forces.*

**Nomination Materials**

Each nomination submission must include: resume or curriculum vitae of the nominee and a cover letter, not to exceed 3 pages, that describes the nominee's interest in serving on the Task Force and how the nominee's expertise, experience, and other qualifications relate to one or more relevant fields noted in the prior section. Self-nominations are acceptable. The following contact information should accompany each nominee's submission: full name, address, telephone number, and email address.

Nominations should be sent to (see **ADDRESSES**) and must be received by January 21, 2020. Information about MAFAC, its Committee charter, current membership, and activities can be viewed on the NMFS' website at *https://www.fisheries.noaa.gov/topic/partners#marine-fisheries-advisory-committee.*

Dated: November 14, 2019.

**Jennifer Lukens,**

*Federal Program Officer, Marine Fisheries Advisory Committee, National Marine Fisheries Service.*

[FR Doc. 2019–25174 Filed 11–19–19; 8:45 am]

**BILLING CODE 3501–22–P**

## COMMODITY FUTURES TRADING COMMISSION

### Agency Information Collection Activities: Notice of Intent To Extend Collection 3038–0025, Practice by Former Members and Employees of the Commission

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice.

**SUMMARY:** The Commodity Futures Trading Commission (''CFTC'' or ''Commission'') is announcing an opportunity for public comment on the proposed renewal of an information collection by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments regarding the reporting requirement imposed on former members and employees of the Commission who are employed or retained by third parties to appear before the Commission.

**DATES:** Comments must be submitted on or before January 21, 2020.

**ADDRESSES:** You may submit comments, identified by ''Practice by Former Members and Employees of the Commission Pursuant to 17 CFR 140.735–6, OMB Control No. 3038–0025,'' by any of the following methods:

- The Agency's website, at *http://comments.cftc.gov/.* Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.*

**FOR FURTHER INFORMATION CONTACT:** John Dolan, Counsel for General Law, Office of the General Counsel, Commodity Futures Trading Commission, (202) 418–5337; email: *jdolan@cftc.gov,* and refer to OMB Control No. 3038–0025.

**SUPPLEMENTARY INFORMATION:** Under the PRA, 44 U.S.C. 3501 *et seq.,* Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this

requirement, the CFTC is publishing notice of a proposed extension of the currently approved information collection listed below. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

*Title:* Practice by Former Members and Employees of the Commission (OMB Control No. 3038–0025). This is a request for an extension of a currently approved information collection.

*Abstract:* Commission Rule 140.735–6 governs the practice before the Commission of former members and employees of the Commission and is intended to ensure that the Commission is aware of any existing conflict of interest. The rule, at 17 CFR 140.735–6 (e), requires former members and employees who are employed or retained to represent any person before the Commission within two years of their separation from the CFTC, to file a brief written statement with the Commission's Office of the General Counsel. The proposed rule was promulgated pursuant to the Commission's rulemaking authority contained in Section 8a(5) of the Commodity Exchange Act, 7 U.S.C. 12a(5) (1994), as amended.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the CFTC, including whether the information will have a practical use;
- The accuracy of the CFTC's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses.

You should submit only information that you wish to make available publicly. If you wish the CFTC to consider information that you believe is exempt from disclosure under the Freedom of Information Act (FOIA), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the CFTC's regulations.[1]

[1] 17 CFR 145.9.

The CFTC reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Correction Request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under FOIA.

*Burden statement:* The respondent's burden for this collection is estimated to average .10 hours per response to file the brief written statement. This estimate includes the time needed to review instructions, utilize technology and systems for the purposes of collecting, validating, verifying, processing and disclosing information, and adjust/update existing methods to comply with any previously applicable instructions and requirements.

*Respondents/Affected Entities:* Former Commission members, employees, and their current employers.

*Estimated number of respondents:* 30.

*Estimated annual burden hours per respondent:* 0.10 hours (or 6 minutes).

*Estimated total annual responses:* 30.

*Estimated total annual burden on respondents:* 3 hours.

*Frequency of collection:* On occasion.

There are no capital costs or operating and maintenance costs associated with this collection.

**Authority:** 44 U.S.C. 3501 *et seq.*

Dated: November 15, 2019.

**Robert Sidman,**

*Deputy Secretary of the Commission.*

[FR Doc. 2019–25165 Filed 11–19–19; 8:45 am]

**BILLING CODE 6351–01–P**

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meetings

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** 84 FR 61896, November 14, 2019.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** 10:00 a.m., Thursday, November 21, 2019.

**CHANGES IN THE MEETING:** The matters to be considered at this meeting now include a registration matter, in addition to the previously announced enforcement matters.

**CONTACT PERSON FOR MORE INFORMATION:** Christopher Kirkpatrick, 202–418–5964.

**Authority:** 5 U.S.C. 552b.

Dated: November 18, 2019.

**Christopher Kirkpatrick,**

*Secretary of the Commission.*

[FR Doc. 2019–25236 Filed 11–18–19; 11:15 am]

**BILLING CODE 6351–01–P**

## BUREAU OF CONSUMER FINANCIAL PROTECTION

**[Docket No. CFPB–2019–0057]**

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

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

**ACTION:** Notice and request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Consumer Financial Protection (Bureau) is requesting to renew the Office of Management and Budget (OMB) approval for an existing information collection titled, ''Truth in Savings (Regulation DD) 12 CFR 1030.''

**DATES:** Written comments are encouraged and must be received on or before December 20, 2019 to be assured of consideration.

**ADDRESSES:** Comments in response to this notice are to be directed towards OMB and to the attention of the OMB Desk Officer for the Bureau. You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: OIRA_submission@omb.eop.gov.*
- *Fax:* (202) 395–5806.
- *Mail:* Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

**FOR FURTHER INFORMATION CONTACT:** Documentation prepared in support of this information collection request is available at *www.reginfo.gov* (this link becomes active on the day following publication of this notice). Select ''Information Collection Review,'' under ''Currently under Review,'' use the dropdown menu ''Select Agency'' and select ''Consumer Financial Protection Bureau'' (recent submissions to OMB will be at the top of the list). The same

documentation is also available at *http://www.regulations.gov.* Requests for additional information should be directed to Darrin King, PRA Officer, at (202) 435–9575, or email: *CFPB_PRA@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.* Please do not submit comments to these email boxes.

**SUPPLEMENTARY INFORMATION:**

*Title of Collection:* Truth in Savings (Regulation DD) 12 CFR 1030.

*OMB Control Number:* 3170–0004.

*Type of Review:* Extension without change of a currently approved collection.

*Affected Public:* Private Sector.

*Estimated Number of Annual Respondents:* 144.

*Estimated Total Annual Burden Hours:* 625,187.[1]

*Abstract:* Consumers rely on the disclosures required by the Truth in Savings Act (TISA) and Regulation DD to facilitate informed decision-making regarding deposit accounts offered at depository institutions. Without this information, consumers would be severely hindered in their ability to assess the true costs and terms of the deposit accounts offered. Federal agencies and private litigants use the records to ascertain whether accurate and complete disclosures of depository accounts have been provided to consumers. This information also provides the primary evidence of law violations in TISA enforcement actions brought by the Bureau. Without the Regulation DD recordkeeping requirement, the Bureau's ability to enforce TISA would be significantly impaired. This is a routine renewal of an existing information collection. The Bureau is not proposing any policy changed pursuant to this notice.

*Request for comments:* The Bureau issued a 60-day **Federal Register** notice on September 9, 2019, 84 FR 47264, Docket Number: CFPB–2019–0050. Comments were solicited and continue to be invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be reviewed by OMB as part of its review of this request. All comments will become a matter of public record.

Dated: November 14, 2019.

**Darrin King,**

*Paperwork Reduction Act Officer, Bureau of Consumer Financial Protection.*

[FR Doc. 2019–25117 Filed 11–19–19; 8:45 am]

**BILLING CODE 4810–AM–P**

[1] The Bureau shares supervisory authority for Regulation DD with the Federal Reserve Board (12 CFR 1030, OMB No. 7100–0271), the Department of Treasury's Office of the Comptroller of the Currency (12 CFR 1030, OMB No. 1557–0176), and the Federal Deposit Insurance Corporation (12 CFR 230, OMB No. 3064–0084). The total estimated burden for all agencies is 749,982 hours for a total of 5,457 respondents.

## DEPARTMENT OF EDUCATION

**[Docket ID ED–2019–FSA–0133]**

### Privacy Act of 1974; Matching Program

**AGENCY:** Federal Student Aid, Department of Education.

**ACTION:** Notice of a New Matching Program.

**SUMMARY:** This provides notice of the establishment of the matching program between the U.S. Department of Education (Department) and the Department of Defense (DoD), which sets forth the terms, safeguards, and procedures under which the DoD will disclose data to the Department on service members deployed to areas that qualify for imminent danger pay (IDP) or hostile fire pay (HFP) as described in Defense Manpower Data Center Base (DMDC 01) System of Records Notice, routine use 15.b. This matching program will enable the Department to provide no-interest accrual benefits on qualifying loans made under title IV of the Higher Education Act of 1965, as amended (HEA) during the time those service members were deployed to qualifying locations.

**DATES:** Submit your comments on the proposed matching program on or before December 20, 2019.

The matching program will go into effect 30 days after the publication of this notice, on November 20, 2019, unless comments have been received from interested members of the public requiring modification and republication of the notice. The matching program will continue for 18 months after the effective date and may be renewed for an additional 12 months if, within 3 months prior to the expiration of the 18 months, the respective Data Integrity Boards of the Department and DoD determine that the conditions specified in 5 U.S.C. 552a(o)(2)(D) have been met.

**ADDRESSES:** Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the ''help'' tab.
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about the matching program, address them to the Project Manager, Lisa Tessitore, Federal Student Aid, U.S. Department of Education, 830 First Street NE, Washington, DC 20202–5320.

*Privacy Note:* The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

**FOR FURTHER INFORMATION CONTACT:** Pam Eliadis, Service Director, System Operations & Aid Delivery Management, Federal Student Aid, U.S. Department of Education, 830 First Street NE, Washington, DC 20202–5320.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), you may call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:** We provide this notice in accordance with Privacy Act of 1974, as amended (Privacy Act) (5 U.S.C. 552a); Office of Management and Budget (OMB) Final Guidance Interpreting the Provisions of Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988, 54 FR 25818 (June 19, 1989); and OMB Circular No. A–108.

*Participating Agencies:* The U.S. Department of Education and the U.S Department of Defense.

*Authority for Conducting the Matching Program:* The Department's legal authority to enter into this

matching program is section 455(o) of the HEA (20 U.S.C. 1087e(o)), and the Department is authorized to disclose records to DoD by subsection (b)(3) of the Privacy Act (5 U.S.C. 552a(b)(3)).

DoD's legal authority for this matching program is provided by section 455(o) of the HEA (20 U.S.C. 1087e(o)), and DoD is authorized to disclose records to the Department by subsection (b)(3) of the Privacy Act (5 U.S.C. 552a(b)(3)).

*Purpose(s):* The matching program will assist the Department in its obligation to ensure that borrowers who have loans first disbursed on or after October 1, 2008, made under the William D. Ford Federal Direct Loan Program (20 U.S.C. 1087a *et seq.*) or a TEACH grant first disbursed on or after October 1, 2008, under the TEACH Grant Program (20 U.S.C. 1070g *et seq.*), which are collectively referred to herein as ''title IV loans'', with outstanding balances receive the no-interest accrual benefit on their eligible title IV loans during the period of time they received IDP or HFP pay. The Department will proactively apply the no-interest accrual benefit to the borrower's eligible title IV loans and notify the borrower that, as a result of the matching program, the borrower does not need to submit further documentation of the borrower's eligibility for the benefit. The Department's notice also will inform the borrower that the Department will accept DoD matched information in lieu of the borrower's submission of DoD payroll documentation, thereby making it easier for the borrower to receive the no-interest accrual benefit.

*Categories of Individuals:* The matching program involves borrowers who have title IV loans with outstanding balances who are listed on the Servicemembers Civil Relief Act (SCRA) website at *https://scra.dmdc.osd.mil/scra/#/home* as military servicemembers and who are identified by DoD as being deployed to areas that qualify for IDP or HFP.

*Categories of Records:* The records to be used in the matching program are described as follows: The Department will disclose to DoD the name (first, middle and last), and Social Security Number (SSN) of borrowers from the National Student Loan Data System (NSLDS) (18–11–06) who the Department identifies as being military servicemembers via the SCRA website. DoD will then disclose to the Department the name (first middle and last), DOB, and SSN of all service members who served in a qualifying IDP or HFP deployment along with their beginning and ending deployment dates and the total number of days deployed for each qualified deployment.

The Department will match the data elements of name, DOB, and SSN received from DoD with the Department's records on borrowers of title IV loans with balances on such loans.

*System(s) of Records:* The Department will disclose records to DoD from its system of records identified as ''National Student Loan Data System (NSLDS)'' (18–11–06), which was last published in full in the **Federal Register** on September 9, 2019 (84 FR 47265) pursuant to routine use (1)(a). The Department has determined that the NSLDS system of records notice contains appropriate routine use disclosure authority and that the use is compatible with the purpose for which the information is collected.

DoD will disclose records back to the Department from its system of records identified as ''Defense Manpower Data Center Data Base (DMDC 01), which was last published in full in the **Federal Register** on February 27, 2019 (84 FR 6383) and subsequently modified on April 16, 2019 (84 FR 15605), pursuant to routine use 15.b. DoD has determined that the DMDC 01 system of records notice contains appropriate routine use disclosure authority and that the use is compatible with the purpose for which the information is collected.

The Department will then match the information provided by DoD with records in the Department's NSLDS system of records.

*Accessible Format:* Individuals with disabilities can obtain this document in an accessible format (such as, braille, large print, audiotape, or compact disc) on request to Lisa Tessitore, Program Operations Specialist, Federal Student Aid, U.S. Department of Education, 830 First Street NE, Washington, DC 20202–5320. Telephone: (202) 377–3249.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

**Mark A. Brown,**

*Chief Operating Officer, Federal Student Aid.*

[FR Doc. 2019–25285 Filed 11–19–19; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

**[FE Docket Nos. 11–128–LNG and 16–205–LNG]**

## Dominion Energy Cove Point LNG, LP; Notice of Change in Control

**AGENCY:** Office of Fossil Energy, DOE.

**ACTION:** Notice of change in control.

**SUMMARY:** The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of a Notification Regarding Planned Change in Indirect Ownership in Accordance with Procedures for Change in Control (Notice) filed October 23, 2019, by Dominion Energy Cove Point LNG, LP (DECP) in the above-referenced dockets. The Notice describes changes to the corporate structure and ownership of DECP. The Notice was filed under section 3 of the Natural Gas Act (NGA).

**DATES:** Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, December 5, 2019.

**ADDRESSES:**

*Electronic Filing by email: fergas@hq.doe.gov.*

*Regular Mail:* U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

*Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.):* U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:**

Benjamin Nussdorf or Amy Sweeney, U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–7893; (202) 586–2627.

Cassandra Bernstein or Kari Twaite, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil

Energy, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9793; (202) 586–6978.

**SUPPLEMENTARY INFORMATION:**

**Summary of Change in Control**

DECP is the owner and operator of the Dominion Cove Point LNG Terminal in Lusby, Maryland, and a wholly-owned, indirect subsidiary of Dominion Energy, Inc. The Notice filed by DECP describes a planned transaction in which Bowie Acquisitions LLC (the Investor) will acquire a minority 25% limited partnership interest in DECP. The Investor is an affiliate of Brookfield Asset Management Inc. DECP states that, as a minority partner, the Investor will have an economic interest in DECP, along with voting rights with respect to certain major decisions. DECP states that it will remain the holder of the export authorizations and there will be no change in the operations of the DECP Terminal as a result of the transaction. DECP states that the parties expect to close the transaction in December 2019. Additional details can be found in DECP's Notice, posted on the DOE/FE website at: *https://cms.doe.gov/sites/prod/files/2019/10/f68/DominionEnergyCovePoint_CIC_filing_10232019_0.pdf.*

**DOE/FE Evaluation**

DOE/FE will review DECP's Notice in accordance with its Procedures for Changes in Control Affecting Applications and Authorizations to Import or Export Natural Gas (CIC Procedures).[1] Consistent with the CIC Procedures, this notice addresses only the authorization granted to DECP to export liquefied natural gas (LNG) to non-free trade agreement (non-FTA) countries in DOE/FE Order No. 3331–A (FE Docket No. 11–128–LNG), and the non-FTA portion of the authorization issued in DOE/FE Order No. 4046 (FE Docket No. 16–205–LNG).[2] If no interested person protests the change in control and DOE takes no action on its own motion, the proposed change in control will be deemed granted 30 days after publication in the **Federal Register**. If one or more protests are submitted, DOE will review any motions to intervene, protests, and answers, and will issue a determination as to whether the proposed change in control has been demonstrated to render the underlying authorization inconsistent with the public interest.

[1] 79 FR 65541 (Nov. 5, 2014).

[2] DECP's Notice also applies to its existing FTA authorizations, but DOE/FE will respond to that portion of the Notice separately pursuant to the CIC Procedures, 79 FR 65542.

**Public Comment Procedures**

Interested persons will be provided 15 days from the date of publication of this notice in the **Federal Register** in order to move to intervene, protest, and answer DECP's Notice. Protests, motions to intervene, notices of intervention, and written comments are invited in response to this notice only as to the change in control described in DECP's Notice, and only with respect to DECP's non-FTA authorizations. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by DOE's regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Preferred method: emailing the filing to *fergas@hq.doe.gov*; (2) mailing an original and three paper copies of the filing to the Office of Regulation, Analysis, and Engagement at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Regulation, Analysis, and Engagement at the address listed in **ADDRESSES**. All filings must include a reference to the individual FE Docket Number(s) in the title line, or Dominion Energy Cove Point LNG, LP Change in Control in the title line. *Please Note:* If submitting a filing via email, please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

DECP's Notice and any filed protests, motions to intervene, notices of intervention, and comments are available for inspection and copying in the Office of Regulation, Analysis, and Engagement docket room, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The Notice and any filed protests, motions to intervene, notices of intervention, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Signed in Washington, DC, on November 14, 2019.

**Amy Sweeney,**

*Director, Office of Regulation, Analysis, and Engagement, Office of Oil and Natural Gas.*

[FR Doc. 2019–25136 Filed 11–19–19; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

**[FE Docket No. 19–133–LNG]**

## Sabine Pass Liquefaction, LLC; Application for Blanket Authorization To Export Liquefied Natural Gas to Non-Free Trade Agreement Countries on a Short-Term Basis

**AGENCY:** Office of Fossil Energy, DOE.

**ACTION:** Notice of application.

**SUMMARY:** The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice (Notice) of receipt of an application (Application), filed on October 11, 2019, by Sabine Pass Liquefaction, LLC (Sabine Pass). Sabine Pass requests blanket authorization to export domestically produced liquefied natural gas (LNG) in a volume equivalent to 600 billion cubic feet (Bcf) of natural gas on a cumulative basis over a two-year period commencing on January 16, 2020. Sabine Pass seeks to export this LNG from the Sabine Pass Liquefaction Project (Liquefaction Project), located in Cameron Parish, Louisiana. Sabine Pass filed the Application under section 3 of the Natural Gas Act (NGA). Protests, motions to intervene, notices of intervention, and written comments are invited.

**DATES:** Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, December 20, 2019.

**ADDRESSES:**

*Electronic Filing by email: fergas@hq.doe.gov.*

*Regular Mail:* U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

*Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.):* U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:**

Benjamin Nussdorf or Amy Sweeney, U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–7893 or (202) 586–2627.

Cassandra Bernstein, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9793.

**SUPPLEMENTARY INFORMATION:** Sabine Pass requests a short-term blanket authorization to export LNG from its Liquefaction Project to any country with the capacity to import LNG via ocean-going carrier and with which trade is not prohibited by U.S. law or policy. This includes both countries with which the United States has entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries) and all other countries (non-FTA countries). This Notice applies only to the portion of the Application requesting authority to export LNG to non-FTA countries pursuant to section 3(a) of the NGA, 15 U.S.C. 717b(a).[1] DOE/FE will review Sabine Pass's request for a FTA export authorization separately pursuant to section 3(c) of the NGA, 15 U.S.C. 717b(c).

Sabine Pass requests this authorization on its own behalf and as agent for other entities who hold title to the LNG at the time of export. Additional details can be found in the Application, posted on the DOE/FE website at: *https://www.energy.gov/fe/downloads/sabine-pass-liquefaction-llc-fe-dkt-no-19-133-lng.*

## DOE/FE Evaluation

In reviewing Sabine Pass's request, DOE will consider any issues required by law or policy. DOE will consider domestic need for the natural gas, as well as any other issues determined to be appropriate, including whether the arrangement is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. As part of this analysis, DOE will consider the study entitled, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports* (2018 LNG Export Study),[2] and DOE/FE's response to public comments received on that Study. [3]

Additionally, DOE will consider the following environmental documents:

- *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States,* 79 FR 48132 (Aug. 15, 2014); [4] and
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States,* 79 FR 32260 (June 4, 2014).[5]

Parties that may oppose this Application should address these issues and documents in their comments and/or protests, as well as other issues deemed relevant to the Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

## Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Interested parties will be provided 30 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, or notices of intervention.

Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 19–133–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Regulation, Analysis, and Engagement at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Regulation, Analysis, and Engagement at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 19–133–LNG. *Please Note:* If submitting a filing via email, please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this Notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this Notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Office of Regulation, Analysis, and Engagement docket room, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene, notices of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

[1] Sabine Pass's existing non-FTA blanket authorization will expire on January 29, 2020. *Sabine Pass Liquefaction, LLC,* DOE/FE Order No. 4150, FE Docket No. 17–161–LNG, Order Granting Blanket Authorization to Export Liquefied Natural Gas by Vessel from the Sabine Pass LNG Terminal Located in Cameron Parish, Louisiana, to Non-Free Trade Agreement Nations (Jan. 30, 2018).

[2] *See* NERA Economic Consulting, Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports (June 7, 2018), *available at: https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf.*

[3] U.S. Dep't of Energy, Study on Macroeconomic Outcomes of LNG Exports: Response to Comments Received on Study; Notice of Response to Comments, 83 FR 67251 (Dec. 28, 2018).

[4] The Addendum and related documents are available at: *http://energy.gov/fe/draft-addendum-environmental-review-documents-concerning-exports-natural-gas-united-states.*

[5] The Life Cycle Greenhouse Gas Report is available at: *http://energy.gov/fe/life-cycle-greenhouse-gas-perspective-exporting-liquefied-natural-gas-united-states.* On September 19, 2019, DOE/FE gave notice of an update to the LCA GHG Report, and that proceeding is on-going. *See* U.S. Dep't of Energy, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States: 2019 Update, 84 FR 49278 (Sept. 19, 2019).

Signed in Washington, DC, on November 14, 2019.

**Amy Sweeney,**

*Director, Office of Regulation, Analysis, and Engagement, Office of Oil and Natural Gas.*

[FR Doc. 2019–25135 Filed 11–19–19; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Energy Information Administration

### Agency Information Collection Extension

**AGENCY:** U.S. Energy Information Administration (EIA), Department of Energy (DOE).

**ACTION:** Notice and request for comments.

**SUMMARY:** EIA requests the reinstatement with changes of the Residential Energy Consumption Survey (*RECS)* Forms EIA 457–A, C, D, E, F and G under OMB Control Number 1905–0092, as required under the Paperwork Reduction Act of 1995. RECS collects data on energy characteristics, consumption, and expenditures for the residential sector of the United States and is comprised of six forms including: Form EIA 457–A *Household Survey,* Form EIA 457–C *Rental Agent Survey,* Form EIA 457–D *Energy Supplier Survey: Household Propane Usage,* Form EIA 457–E *Energy Supplier Survey: Household Electricity Usage,* Form EIA 457–F, *Energy Supplier Survey: Household Natural Gas Usage,* Form EIA 457–G *Energy Supplier Survey: Household Fuel Oil/Kerosene Usage.* These forms will be used to collect data and produce household energy usage estimates for calendar year 2020.

**DATES:** EIA must receive all comments on this proposed information collection no later than January 21, 2020. If you anticipate any difficulties in submitting your comments by the deadline, contact the person listed in the **ADDRESSES** section of this notice as soon as possible.

**ADDRESSES:** Send comments by mail to James Berry, RECS Survey Manager, EI–22, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585. Submit comments electronically by email to *james.berry@eia.gov.*

**FOR FURTHER INFORMATION CONTACT:** If you need additional information or copies of the information collection instrument, send your request to James Berry by phone at (202) 586–5543, or by email to *james.berry@eia.gov.* You can view Forms EIA–457 A, C, D, E, F, and G online at: *https://www.eia.gov/survey/#eia-457.*

**SUPPLEMENTARY INFORMATION:** This information collection request contains:

(1) *OMB No.:* 1905–0092;

(2) *Information Collection Request Title:* Residential Energy Consumption Survey;

(3) *Type of Request:* Renewal with changes;

(4) *Purpose:* The RECS is a nationwide study of energy use in housing units and includes a series of data collections from households, rental agents (*e.g.,* apartment managers), and household energy suppliers. RECS data include official statistics about the energy characteristics, consumption, and expenditures of U.S. homes. EIA has conducted the RECS periodically since 1978 and the 2020 RECS will be the 15th data collection for the program.

Form EIA 457–A: *Household Survey* collects information on the presence and characteristics of a wide range of energy consuming devices in homes, including heating and cooling equipment, appliances, and electronics. The Household Survey also asks respondents about key structural features and demographic characteristics that impact energy usage. Form EIA 457–C: *Rental Agent Survey* collects higher quality energy characteristics information about which Household Survey respondents in rented homes may not be able to answer. This information includes the equipment type and fuel for space heating and water heating. Forms EIA 457–D, E, F, and G: *Energy Supplier Surveys* collect monthly electricity and natural gas billing data from Household Survey respondent energy suppliers (*e.g.,* utilities), and periodic propane and fuel oil delivery data from bulk fuel suppliers.

RECS is integral to EIA's mandate to collect and publish energy end-use consumption data. RECS reports and data represent the most comprehensive national and sub-national results available on energy consumption in homes. RECS is the only national data series that allows policy makers and program implementers in both public and private organizations to analyze trends in energy consumption for the residential sector. RECS fulfills planning, analyses, and decision-making needs of DOE, other Federal agencies, state governments, utilities, researchers, and energy analysts in the private sector.

(4a) *Proposed Changes to Information Collection:* EIA will use Web and mail questionnaires as the modes of collection for Form EIA 457–A: *Household Survey.* This design feature for the 2020 RECS represents a change from prior collection cycles of RECS where computer assisted personal interviewing (CAPI) was the primary method for collecting household energy characteristics data. In 2014, EIA piloted three tests of Web and mail questionnaires to determine the feasibility of using these alternative data collection methods. Based on extensive analysis of sample representativeness, nonresponse bias, and data quality, EIA determined that Web and mail were viable modes for the 2020 and future RECS data collections.

Using Web and mail modes allows EIA to expand the targeted number of completed cases for the RECS. EIA anticipates collecting 2020 RECS Household Survey responses for approximately 20,000 households. With a larger sample, EIA will produce more precise estimates for key energy metrics, as well as produce some estimates for all 50 states and the District of Columbia.

EIA proposes to update the Household Survey to collect information on emerging technologies, traditional energy-consuming devices, and update some questions to improve data quality. EIA is proposing the following questionnaire updates based on changes in the residential housing market and stakeholder feedback. The new questions that are added reflect EIA's effort to collect the most relevant information necessary to estimate household energy use and to inform energy end-use modeling. The revised questions also improve response quality, minimize reporting burden, and reflect changes in technology. Questions were removed that had poor response quality from the last collection or where data are now available from alternative sources.

**Question Additions**

- (Your Home section) Add a series of questions to collect plug-in, all-electric, hybrid vehicle charging infrastructure and charging behavior. Plug-in electric vehicles are an emerging technology that can significantly impact a household's electricity consumption. These additional questions about charging behavior (*e.g.,* how often and where the household charges) and the type of plug being used to charge (*e.g.,* Level 1 or Level 2) will improve EIA's analysis of the impact of electric vehicle charging on household energy use.
- (Your Home) Add a question to collect major structural changes or renovations. EIA's estimates of space heating and air-conditioning consumption and cost rely heavily on

RECS conditioned space data and the age of each housing unit. This additional question where respondents report significant structural changes that expand the size of the home (*e.g.,* rooms added) or alter the thermal insulation factors (*e.g.,* replacing old windows) would improve estimates for space conditioning end uses.

• (Appliances) Add a question to collect the months a second refrigerator is turned on. Some households with multiple refrigerators may only use the second refrigerator during certain times of the year. Asking respondents to report the number of months this appliance is actually in use will improve our estimates of refrigerator consumption.

• (Electronics) Add a question to collect usage of third most-used televisions. About 40% of households use three or more televisions, however EIA only collected hours of usage for the most-used and second most-used televisions for the 2015 RECS. Collecting information on the third most-used television will improve EIA's estimation of total television consumption.

• (Electronics) Add a question to collect video game console usage. Video game consoles represent a significant portion of ''miscellaneous electric load'' consumption if used extensively by a household. EIA will add this usage question to differentiate high, medium, and low usage households for these devices.

• (Electronics) Add a question to collect use of energy-intensive medical equipment. Continuous Positive Airway Pressure machines (CPAP), dialysis machines, and other medical devices may account for a significant portion of ''miscellaneous electric load'' consumption if used in a household. EIA will add this question to collect the presence of the most common and most energy-intensive medical devices in homes.

• (Electronics) Add additional questions to collect smart devices in homes. A key topic in household energy use is the proliferation of internet-connected or ''smart'' devices in homes (*e.g.,* smart speakers, security systems, doorbells, sprinkler systems). Understanding the market penetration of these devices, individually and collectively, will improve EIA's analysis and consumption estimates of household miscellaneous electric loads, or MELs.

• (Space Heating) Add a question to collect heat pump type. Heat pump efficiencies vary by type, particularly between air-source and geothermal units. Knowing the type of heat pump system will improve EIA's estimates of heating load.

• (Space Heating) Add a question to collect backup heat source for households using heat pumps as the primary heating equipment. Most heat pumps require a backup heating source when the outdoor temperature is too cold for the heat pump to work efficiently. This additional question, which will determine if the backup source is electric-resistance or a natural gas-sourced component, is necessary to ensure EIA can attribute the heating load in the home to the correct fuel and device type.

• (Space Heating) Add a question to collect extent of secondary heating equipment. Household usage of backup or secondary heating sources, such as portable heaters and wood stoves, can vary significantly. This additional question to collect the relative use of these secondary sources is necessary to ensure EIA can attribute the heating load in the home to the correct fuel and device type.

• (Air Conditioning) Add a question to collect ceiling fan usage. Ceiling fans account for about 2% of household electricity consumption. This additional question to collect the relative use of ceiling fans is necessary to collect the variability in usage of these devices across homes.

• (Water Heating) Add a question to collect heat pump water heaters. Heat pump water heaters are an emerging, efficient technology in the residential sector. This additional question is necessary to measure the number of homes with these devices, and to more accurately estimate water heating energy consumption.

• (Energy Assistance) Add a question to collect electricity disconnections for any reason, including power outages due to weather. The 2015 RECS Household Survey included questions to collect household electricity outages due to failure to pay bills, but data users expressed a need to collect electricity disconnection for any reason. This additional question will improve analysis of the impacts of residential energy disruptions.

• (Energy Bills) Add a question to collect data on on-site solar generation capacity. The RECS Household Survey currently includes a question about the presence of solar panels, but this additional question about the system capacity is needed to understand the portion of household consumption that is attributable to the on-site generation.

**Revisions**

• (Your Home) Modify the question about vacant periods of the sampled housing unit. The follow-up collection of energy bills via the Energy Supplier Surveys is a key component of the overall RECS program. Capturing information about extended vacant periods will explain anomalous bills (*e.g.,* low electricity consumption during the summer) or gaps in bills (*e.g.,* no consumption for several months).

• (Your Home) Modify the basement question to add response options for homes on concrete slabs or crawl spaces. Prior to the 2015 RECS, the Household Survey collected information on three primary home foundation types. Only basements were collected for the 2015 RECS. EIA's estimates of space conditioning loads rely heavily on home foundation data, so reinstating additional foundation response options will improve space heating and cooling consumption estimates.

• (Appliances) Modify the range question response option for ''dual fuel''. The prior RECS Household Surveys only allowed for reporting of dual fuel ranges (*i.e.,* gas cooktop and electric oven) as an ''other/specify'' write-in response. The updated questionnaire will contain an explicit ''dual fuel'' response option to collect the presence of this type of range.

• (Electronics) Modify the TV type questions to reflect current market terminology and trends. The current TV market is almost exclusively LED (or OLED) models, with most plasma, older LCD, and CRT models no longer available. EIA will update response options to reflect this trend in the market.

• (Space Heating and Air Conditioning) Modify the humidifier and dehumidifier question response options to collect whether units are portable or whole-home units. Humidifier and dehumidifier consumption can vary significantly based on whether the device is meant to impact all spaces in a home (whole-home) or only sections of the home (portable).

• (Lighting) Modify the lighting questions to collect more detail about use of each type of light bulb in the house and to improve quality of responses. There have been significant shifts in the residential lighting market since the 2015 RECS, particular with purchases of LED bulbs. The RECS Household Survey lighting section needs to be revised to better collect the relative use of LED, as well as older CFL, halogen, and incandescent bulbs.

• (Energy Suppliers and Use) Modify the self-reported wood supply questions to improve data quality. Unlike propane and fuel oil usage data, EIA relies solely on Household Survey respondents to

report wood usage. Revising existing questions to include question aides (*e.g.,* pictures) and better response options to more accurately differentiate high, medium, and low wood usage households will improve response quality and estimates of household wood usage.

• (Household Characteristics) Modify the income question response options to collect more detail. Data users indicate that the level of detail for the 2015 RECS income question was not sufficient for many analysis needs, especially concerning low-income households. EIA will revise the income question to include more income range response options.

**Deletions**

• (Energy Programs) Delete all Energy Star questions. EIA comparisons of 2009 and 2015 RECS Energy Star responses with Energy Star appliance shipment data show that RECS respondents have difficulty identifying whether their appliances are Energy Star certified. These data quality issues, as well as data availability via alternative sources, warrants removal of these items from the RECS Household Survey.

• (Energy Programs) Delete all efficiency program participation questions. Data users indicate that the lack of specificity associated with respondent reports of energy program participation (*e.g.,* light bulb rebate programs) significantly decreases the utility of these RECS Household Survey items. Data users also are able to access these data from alternative data sources, including individual government or utility program offices.

• (Energy Suppliers and Use) Delete the self-reported propane and fuel oil supply and cost questions. The RECS Household Survey included self-reported propane and fuel oil delivery and cost questions in prior survey cycles. This information, however, is no longer used extensively as EIA now relies almost exclusively on data reported on the Energy Supplier Surveys.

There are no changes to Forms EIA 457–C, D, E, F, and G.

(5) *Annual Estimated Number of Respondents:* 6,115;

(6) *Annual Estimated Number of Total Responses:* 6,115;

(7) *Annual Estimated Number of Burden Hours:* 2,840;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* The annualized cost of the burden hours is estimated to be $222,961 (2,840 burden hours times $78.52 per hour). EIA estimates that respondents will have no additional costs associated with the surveys other than burden hours.

Comments are invited on whether or not: (a) The proposed collection of information is necessary for the proper performance of agency functions, including whether the information will have a practical utility; (b) EIA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used, is accurate; (c) EIA can improve the quality, utility, and clarity of the information it will collect; and (d) EIA can minimize the burden of the collection of information on respondents, such as automated collection techniques or other forms of information technology.

**Statutory Authority:** Section 13(b) of the Federal Energy Administration Act of 1974, Pub. L. 93–275, codified as 15 U.S.C. 772(b) and the DOE Organization Act of 1977, Pub. L. 95–91, codified at 42 U.S.C. 7101 *et seq.*

Signed in Washington, DC, on November 14, 2019.

**Nanda Srinivasan,**

*Director, Office of Statistical Methods and Research, U.S. Energy Information Administration.*

[FR Doc. 2019–25077 Filed 11–19–19; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

**Filings Instituting Proceedings**

*Docket Number:* PR20–8–000.
*Applicants:* Columbia Gas of Ohio, Inc.
*Description:* Tariff filing per 284.123(b),(e)/: Revised SOC to be effective 10/29/2019.
*Filed Date:* 11/12/19.
*Accession Number:* 201911125059.
*Comments/Protests Due:* 5 p.m. ET 12/3/19.

*Docket Number:* PR20–9–000.
*Applicants:* Southcross Nueces Pipelines LLC.
*Description:* Tariff filing per 284.123(e)+(g): Cancellation of SOC to be effective 11/12/2019.
*Filed Date:* 11/12/19.
*Accession Number:* 201911125212.
*Comments Due:* 5 p.m. ET 12/3/19.
*284.123(g) Protests Due:* 5 p.m. ET 1/13/20.

*Docket Numbers:* RP19–1641–001.
*Applicants:* Panhandle Eastern Pipe Line Company, LP.
*Description:* Compliance filing Compliance with RP19–1641 Fuel Filing Order to be effective 11/1/2019.
*Filed Date:* 11/8/19.
*Accession Number:* 20191108–5031.
*Comments Due:* 5 p.m. ET 11/20/19.

*Docket Numbers:* RP20–217–000.
*Applicants:* KPC Pipeline, LLC.
*Description:* § 4(d) Rate Filing: Tariff Filing to Clarify Ability to Negotiate Contractual ROFRs to be effective 12/9/2019.
*Filed Date:* 11/8/19.
*Accession Number:* 20191108–5030.
*Comments Due:* 5 p.m. ET 11/20/19.

*Docket Numbers:* RP20–218–000.
*Applicants:* Iroquois Gas Transmission System, L.P.
*Description:* § 4(d) Rate Filing: 110819 Negotiated Rates—Emera Energy Services, Inc. R–2715–39 to be effective 12/1/2019.
*Filed Date:* 11/8/19.
*Accession Number:* 20191108–5034.
*Comments Due:* 5 p.m. ET 11/20/19.

*Docket Numbers:* RP20–219–000.
*Applicants:* Iroquois Gas Transmission System, L.P.
*Description:* § 4(d) Rate Filing: 110819 Negotiated Rates—Emera Energy Services, Inc. R–2715–40 to be effective 12/1/2019.
*Filed Date:* 11/8/19.
*Accession Number:* 20191108–5035.
*Comments Due:* 5 p.m. ET 11/20/19.

*Docket Numbers:* RP20–220–000.
*Applicants:* Columbia Gas Transmission, LLC.
*Description:* § 4(d) Rate Filing: TCO Arsenal Agreement Termination to be effective 11/8/2019.
*Filed Date:* 11/8/19.
*Accession Number:* 20191108–5045.
*Comments Due:* 5 p.m. ET 11/20/19.

*Docket Numbers:* RP20–221–000.
*Applicants:* Algonquin Gas Transmission, LLC.
*Description:* § 4(d) Rate Filing: Negotiated Rates—PSEG ERT K800576 to be effective 11/8/2019.
*Filed Date:* 11/8/19.
*Accession Number:* 20191108–5115.
*Comments Due:* 5 p.m. ET 11/20/19.

*Docket Numbers:* RP20–222–000.
*Applicants:* Northern Natural Gas Company.
*Description:* § 4(d) Rate Filing: 20191108 Negotiated Rate Filing to be effective 11/10/2019.
*Filed Date:* 11/8/19.
*Accession Number:* 20191108–5151.
*Comments Due:* 5 p.m. ET 11/20/19.

*Docket Numbers:* RP20–223–000.
*Applicants:* Southern Star Central Gas Pipeline, Inc.
*Description:* Compliance filing Annual Operational Flow Order Report 2019 to be effective N/A.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112–5017.

*Comments Due:* 5 p.m. ET 11/25/19.

*Docket Numbers:* RP20–224–000.

*Applicants:* Southern Natural Gas Company, L.L.C.

*Description:* Compliance filing Annual Report on Operational Transactions 2019 to be effective N/A.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112–5130.

*Comments Due:* 5 p.m. ET 11/25/19.

*Docket Numbers:* RP20–225–000.

*Applicants:* Rockies Express Pipeline LLC.

*Description:* § 4(d) Rate Filing: Neg Rate 2019–11–11 CP, BP and EOG to be effective 11/12/2019.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112–5234.

*Comments Due:* 5 p.m. ET 11/25/19.

*Docket Numbers:* RP20–226–000.

*Applicants:* NEXUS Gas Transmission, LLC.

*Description:* § 4(d) Rate Filing: Negotiated Rates—NJR, Equinor, Twin Eagle eff 10–13–19 to be effective 11/13/2019.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112–5256.

*Comments Due:* 5 p.m. ET 11/25/19.

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 date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 14, 2019.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2019–25142 Filed 11–19–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER20–370–000]**

### City Power & Gas, 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 City Power & Gas, 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 December 4, 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: November 14, 2019.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2019–25146 Filed 11–19–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 15012–000]**

### FreedomWorks, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On October 16, 2019,[1] FreedomWorks, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Ulysses Pumped Storage Hydropower Project to be located in Grant County, West Virginia. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A new upper reservoir with a surface area of 1,042 acres and a storage capacity of 141,000 acre-feet at a surface elevation of approximately 2,960 feet above mean sea level (msl) created by constructing new dams with roller compacted concrete or earth and rock excavated from nearby mine site reclamation; (2) a new lower reservoir with a surface area of 1,139 acres and a storage capacity of 141,000 acre-feet at a surface elevation of 1,280 feet msl created by constructing new dams with roller compacted concrete or earth and rock excavated from nearby mine site reclamation; (3) three new 36,960-foot-long, 24-foot-diameter penstocks connecting the upper reservoir and lower reservoir; (4) a new 800-foot-long, 50-foot-wide, 25-foot-high powerhouse containing eight turbine-generator units with a total rated capacity of 4,000 megawatts; (5) a new transmission line connecting the powerhouse to a nearby electric grid interconnection point with options to evaluate multiple grid

[1] FreedomWorks, LLC, revised its application on October 17, 2019.

interconnection locations; and (6) appurtenant facilities. Initial fill and make-up water for the upper reservoir would come from groundwater inputs and the Stoney River, and the water for the lower reservoir would come from groundwater inputs and North Fork Patterson Creek. The proposed project would have an annual generation of approximately 17,520,000 megawatt-hours.

*Applicant Contact:* Tim Williamson, FreedomWorks, LLC, 525 Wren Lane, Harpers Ferry, WV 25425; phone: 202–369–6324.

*FERC Contact:* Monir Chowdhury; phone: (202) 502–6736.

*Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications:* 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–15012–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–15012) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: November 14, 2019.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2019–25126 Filed 11–19–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP20–11–000]**

### Southern Star Central Gas Pipeline, Inc.; Notice of Request Under Blanket Authorization

Take notice that on November 4, 2019, Southern Star Central Gas Pipeline, Inc. (Southern Star), 4700 State Highway 56, Owensboro, Kentucky 42301, filed in the above referenced docket a prior notice request pursuant to sections 157.205(b), 157.208(c), and 157.210 of the Commission's regulations under the Natural Gas Act and its blanket certificate issued in Docket No. CP82–479–000 for authorization to make modifications and replacements at its Grabham Compressor Station in Montgomery County, Kansas. Specifically, Southern Star plans to modify the Grabham yard piping to allow Unit #13 to discharge gas into the southern trunk loop. Southern Star states that the proposed project would create up to 40,000 dekatherms per day of additional firm transportation capacity. Southern Star estimates the cost of the project to be approximately $3.0 million, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to Cindy Thompson, Manager, Regulatory, Southern Star Central Gas Pipeline, Inc., 4700 Highway 56, Owensboro, Kentucky 42301, by telephone at (270) 852–4655, or by email at *cindy.thompson@southernstar.com.*

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list and will be notified of any meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, 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 3 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Dated: November 14, 2019.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2019–25125 Filed 11–19–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CD20–2–000]**

### Ute Mountain Ute Tribe Farm and Ranch Enterprise; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On November 13, 2019, the Ute Mountain Ute Tribe Farm and Ranch Enterprise filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA). The proposed UMUT–FRE Irrigation Hydro Project would have an installed capacity of 221 kilowatts (kW), and would be located along the applicant's existing irrigation system near Towaoc, Montezuma County, Colorado.

*Applicant Contact:* Tim Olsen, 1428 S Humboldt St., Denver, CO 80210, Phone No. (303) 777–3341, Email: *tolsen@windtechnology.com.*

*FERC Contact:* Christopher Chaney, Phone No. (202) 502–6778, Email: *christopher.chaney@ferc.gov.*

*Qualifying Conduit Hydropower Facility Description:* The proposed project would consist of: (1) 10 turbine-generators, each with a capacity between 10–30 kW, with a total capacity of 221 kW; (2) 10 powerhouse vaults; and (3) appurtenant facilities. The proposed project would have an estimated annual generation of up to 636 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

| Statutory provision | Description | Satisfies (Y/N) |
|---|---|---|
| FPA 30(a)(3)(A) | The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar man-made water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity. | Y |
| FPA 30(a)(3)(C)(i) | The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit. | Y |
| FPA 30(a)(3)(C)(ii) | The facility has an installed capacity that does not exceed 40 megawatts | Y |
| FPA 30(a)(3)(C)(iii) | On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA. | Y |

*Preliminary Determination:* The proposed UMUT–FRE Irrigation Hydro Project will not alter the primary purpose of the conduits, which is to transport water for irrigation. Therefore, based upon the above criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility, which is not required to be licensed or exempted from licensing.

*Comments and Motions to Intervene:* Deadline for filing comments contesting whether the facility meets the qualifying criteria is 30 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

*Filing and Service of Responsive Documents:* All filings must (1) bear in all capital letters the ''COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY'' or ''MOTION TO INTERVENE,'' as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

[1] 18 CFR 385.2001–2005 (2019).

*Locations of Notice of Intent:* Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE, Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the ''eLibrary'' link. Enter the docket number (*i.e.,* CD20–2) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

Dated: November 14, 2019.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2019–25124 Filed 11–19–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER19–38–004.

*Applicants:* Fairless Energy, L.L.C.

*Description:* Compliance filing: Settlement compliance filing to be effective 12/12/2018.

*Filed Date:* 11/14/19.
*Accession Number:* 20191114–5061.
*Comments Due:* 5 p.m. ET 12/5/19.

*Docket Numbers:* ER20–372–000.
*Applicants:* Pennsylvania Electric Company, Jersey Central Power & Light Company, Metropolitan Edison Company, PJM Interconnection, L.L.C.
*Description:* § 205(d) Rate Filing: Penelec et al submit Revised WASPs, Service Agreement Nos. 4221, 4222, and 4223 to be effective 1/12/2020.
*Filed Date:* 11/13/19.
*Accession Number:* 20191113–5146.
*Comments Due:* 5 p.m. ET 12/4/19.

*Docket Numbers:* ER20–373–000.
*Applicants:* Midcontinent Independent System Operator, Inc.
*Description:* § 205(d) Rate Filing: 2019–11–14_SA 3369 Entergy Mississippi (Choctaw) GIA to be effective 10/31/2019.
*Filed Date:* 11/14/19.
*Accession Number:* 20191114–5005.
*Comments Due:* 5 p.m. ET 12/5/19.

*Docket Numbers:* ER20–374–000.
*Applicants:* Duke Energy Carolinas, LLC.
*Description:* § 205(d) Rate Filing: DEC-Midway Solar Green ASOA (SA No. 529) to be effective 11/1/2019.
*Filed Date:* 11/14/19.
*Accession Number:* 20191114–5017.
*Comments Due:* 5 p.m. ET 12/5/19.

*Docket Numbers:* ER20–375–000.
*Applicants:* ISO New England Inc., Emera Maine.
*Description:* § 205(d) Rate Filing: Changes to ISO New England OATT Schedule 20A–EM to be effective 11/1/2020.
*Filed Date:* 11/14/19.
*Accession Number:* 20191114–5018.
*Comments Due:* 5 p.m. ET 12/5/19.

*Docket Numbers:* ER20–376–000.
*Applicants:* New York State Electric & Gas Corporation, New York Independent System Operator, Inc.
*Description:* § 205(d) Rate Filing: Reimbursement Agreement (SA 2492) between NYSEG and Greenidge Generation to be effective 10/18/2019.
*Filed Date:* 11/14/19.
*Accession Number:* 20191114–5027.
*Comments Due:* 5 p.m. ET 12/5/19.

*Docket Numbers:* ER20–377–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* § 205(d) Rate Filing: First Revised ISA, SA No. 4807, Queue No. AD2–035 to be effective 10/15/2019.
*Filed Date:* 11/14/19.
*Accession Number:* 20191114–5082.
*Comments Due:* 5 p.m. ET 12/5/19.

*Docket Numbers:* ER20–378–000.
*Applicants:* Pacific Gas and Electric Company.
*Description:* § 205(d) Rate Filing: 11–14–19 Unexecuted Agreements, City and County of San Francisco WDT SA (SA 275) to be effective 1/13/2020.
*Filed Date:* 11/14/19.
*Accession Number:* 20191114–5093.
*Comments Due:* 5 p.m. ET 12/5/19.

*Docket Numbers:* ER20–379–000.
*Applicants:* Commonwealth Edison Company, PJM Interconnection, L.L.C.
*Description:* § 205(d) Rate Filing: ComEd submits revisions to OATT, Att. H13A re: Materials and Supplies to be effective 1/1/2020.
*Filed Date:* 11/14/19.
*Accession Number:* 20191114–5094.
*Comments Due:* 5 p.m. ET 12/5/19.

*Docket Numbers:* ER20–380–000.
*Applicants:* Midcontinent Independent System Operator, Inc.
*Description:* § 205(d) Rate Filing: 2019–11–14_SA 3370 ATC-Red Barn Energy GIA (J855) to be effective 10/30/2019.
*Filed Date:* 11/14/19.
*Accession Number:* 20191114–5121.
*Comments Due:* 5 p.m. ET 12/5/19.

Take notice that the Commission received the following qualifying facility filings:

*Docket Numbers:* QF20–280–000.
*Applicants:* Geisinger Wyoming Valley.
*Description:* Form 556 of Geisinger Wyoming Valley.
*Filed Date:* 11/14/19.
*Accession Number:* 20191114–5067.
*Comments Due:* None Applicable.

*Docket Numbers:* QF20–282–000.
*Applicants:* The Cooper Health System.
*Description:* Form 556 of The Cooper Health System.
*Filed Date:* 11/14/19.
*Accession Number:* 20191114–5104.
*Comments Due:* None Applicable.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 14, 2019.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2019–25145 Filed 11–19–19; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–10002–23–Region 6]**

### Underground Injection Control Program; Hazardous Waste Injection Restrictions; Petition for Exemption Reissuance—Class I Hazardous Waste Injection; ExxonMobil Corporation Pasadena, Texas Facility

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

**ACTION:** Notice of a final decision on a UIC no migration petition reissuance.

**SUMMARY:** Notice is hereby given that a reissuance of an exemption to the Land Disposal Restrictions, under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act, has been granted to ExxonMobil for two Class I hazardous waste injection wells located at their Pasadena, Texas facility. The company has adequately demonstrated to the satisfaction of the Environmental Protection Agency (EPA) by the petition reissuance application and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the underground injection by ExxonMobil of the specific restricted hazardous wastes identified in this exemption reissuance request, into Class I hazardous waste injection wells WDW–397 and 398 until December 31, 2040, unless the EPA moves to terminate this exemption. Additional conditions included in this final decision may be reviewed by contacting the EPA Region 6 Ground Water/UIC Section. There were two public comment periods for this decision because the newspaper failed to publish the first notice. They were 6/12–7/29/19 and 8/21–10/7/19 and no comments were received. This decision constitutes final Agency action and there is no Administrative appeal.

**DATES:** This action is effective as of October 29, 2019.

**ADDRESSES:** Copies of the petition reissuance and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Water Division, Safe Drinking Water Branch

(6WDD), 1201 Elm Street, Suite 500, Dallas, Texas 75270–2102.

**FOR FURTHER INFORMATION CONTACT:** Philip Dellinger, Chief Ground Water/UIC Section, EPA—Region 6, telephone (214) 665–8324.

Dated: October 29, 2019.

**Randall Rush,**

*Acting Deputy Director, Water Division.*

[FR Doc. 2019–25162 Filed 11–19–19; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2019–0637; FRL–10002–09]**

## New Chemicals Program Implementation Under the Amended Toxic Substances Control Act (TSCA); Notice of Public Meeting

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

**ACTION:** Notice.

**SUMMARY:** On December 10, 2019, EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) will hold a public meeting to engage with interested stakeholders on the implementation of EPA's TSCA New Chemicals program, including: (1) An overview of EPA's updated ''*Working Approach*'' document that builds upon EPA's November 2017 ''*New Chemicals Decision-Making Framework: Working Approach to Making Determinations under section 5 of TSCA*''*;* (2) a demonstration of how EPA uses key concepts in the Working Approach to reach certain conclusions and/or make determinations under TSCA section 5(a)(3) using specific case examples; (3) an update on confidential business information (CBI) process improvements and clarifications; and (4) a discussion of EPA's ongoing efforts and progress to increase transparency. Interested stakeholders will have the opportunity at the meeting to provide their views on these topics, in addition to providing written feedback in the docket. Later in December 2019, EPA expects to announce the availability of the updated ''Working Approach'' document and provide opportunity for written public comment on the document. Feedback from the public meeting and comments received will help inform the Agency's ongoing efforts to improve policy and processes relating to the review of new chemicals under TSCA.

**DATES:** *Meeting:* The New Chemicals Program meeting will be held on December 10, 2019, from 10:00 a.m. to 3:00 p.m. In addition to EPA presentations on the topics described above, EPA is setting aside one hour (from 1:40 p.m. to 2:40 p.m.) for members of the public to share their views. See registration instructions below. Online requests to speak at the meeting must be received on or before December 6, 2019. On-site registration for both attendance and speaking will be permitted, but seating and speaking priority will be given to those who pre-register by the deadline.

*Requests for Accommodation:* To request accommodation of a disability, please contact the meeting logistics person listed under **FOR FURTHER INFORMATION CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

*Comments:* EPA will accept written feedback on these topics in the docket until January 24, 2020. When submitting comments to the docket, please be as specific as possible, and please include any supporting data or other information.

**ADDRESSES:** The meeting will be held at EPA's William Jefferson Clinton East Building, room 1153 (''the Map Room''), 1201 Constitution Avenue NW, Washington, DC 20460. The meeting will also be available by remote access for registered participants. For further information, see Unit III. under **SUPPLEMENTARY INFORMATION.**

*Registration:* To participate in the New Chemicals Program Implementation meeting on December 10, 2019 (identified by docket identification (ID) number EPA–HQ–OPPT–2019–0637), you may register online (preferred) or in person at the meeting. To register online, go to *https://epa-ncrp.eventbrite.com.*

*Comments:* Written feedback, identified by the docket ID number EPA–HQ–OPPT–2019–0637, can be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting written feedback. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 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 in general is available at *http://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:** *For technical information about the New Chemicals Program Implementation meeting contact:* Ryan Schmit, Office of Pollution Prevention and Toxics (7101M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–0610; email address: *schmit.ryan@epa.gov.*

*For meeting logistics or registration contact:* Emily Connor, Abt Associates; telephone number: (301) 347–5197; email address: *emily_connor@abtassoc.com.*

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

**SUPPLEMENTARY INFORMATION:**

### I. 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 chemical manufacturers, processors and users, consumer product companies, non-profit organizations in the environmental, public health and animal welfare sectors, state and local government agencies, and members of the public interested in the environmental and human health assessment and regulation of new chemical substances. 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 the New Chemicals Program Implementation meeting (EPA–HQ–OPPT–2019–0637) is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional

information about the docket available at *http://www.epa.gov/dockets.*

## II. Background

The Frank R. Lautenberg Chemical Safety for the 21st Century Act, amending the Toxic Substances Control Act of 1976, was signed into law on June 22, 2016. The amendments have enhanced EPA's authority to evaluate chemical substances.

Since the 2016 amendments to TSCA, EPA has been working to make the policy and process changes necessary to align the New Chemicals program with the requirements of the new law, as well as to streamline and improve the review process. In November 2017, EPA released the ''*New Chemicals Decision-Making Framework: Working Approach to Making Determinations under section 5 of TSCA*'' (the ''Working Approach'') for public comment, and subsequently held a public meeting on implementing the New Chemicals program under amended TSCA on December 14, 2017.

After consideration of comments received on the 2017 version and based on additional implementation experience, EPA is updating the Working Approach. Later in December 2019, EPA will announce the availability of the updated document after the public meeting and will accept comments on the updated document. EPA expects the updated document will provide further clarity and detail on EPA's approach and practices, including: (1) EPA's general guiding principles and concepts for making determinations on new chemical notices submitted to EPA under section 5 of TSCA; (2) the decision-making logic and the key questions that EPA must address; and (3) a discussion of how EPA might apply the working approach to reach one of the five new chemical determinations allowable under the statute.

Additional information on the TSCA amendments can be found at *https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/frank-r-lautenberg-chemical-safety-21st-century-act.*

## III. Meeting

### *A. Remote Access*

The meeting will be accessible remotely for registered participants. Registered participants will receive information on how to connect to the meeting prior to its start.

### *B. Public Participation at the Meeting*

Members of the public may register to attend the meeting as observers and may also register to speak at the meeting, using one of the registration methods described under **ADDRESSES**. A registered speaker is encouraged to focus on issues directly relevant to the meeting's subject matter. Each speaker will be allowed approximately three minutes to provide oral feedback, subject to the number of confirmed registered speakers. A speaker must be registered in order to speak during the meeting. To accommodate as many registered speakers as possible, speakers may not use visual aids or written material. Persons registered to speak (as well as others) may submit written materials to the dockets as described under **ADDRESSES**. The meeting agenda and supporting materials will be made available in the docket and on EPA's website in advance of the meeting.

## IV. How can I request to participate in these meeting?

### *A. Registration*

To attend the meeting in person or to receive remote access, you must register online no later than December 6, 2019, using one of the methods described under **ADDRESSES**. While on-site registration will be available, seating will be on a first-come, first-served basis, with priority given to early registrants, until room capacity is reached. For registrants not able to attend in person, the meeting will also provide remote access capabilities; registered participants will be provided information on how to connect to the meeting prior to its start.

### *B. Required Registration Information*

Members of the public may register to attend as observers or to speak during the scheduled public speaking period at the meeting. To register for the meeting online, you must provide your full name, organization or affiliation, and contact information.

**Authority:** 15 U.S.C. 2601 *et seq.*

Dated: November 15, 2019.

**Tala Henry,**

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

[FR Doc. 2019–25171 Filed 11–19–19; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPP–2017–0720; FRL–10001–76]**

## Pesticide Registration Review; Pesticide Dockets Opened for Review and Comment; Notice of Availability

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the availability of the EPA's preliminary work plans for the following chemicals: Pyrimethanil and saflufenacil. With this document, the EPA is opening the public comment period for registration review for these chemicals. This notice also announces the availability of EPA's draft ecological risk assessment for the pesticide pyrimethanil and opens a 60-day public comment period on the draft risk assessment. EPA is also announcing that it will not be opening a docket, nor conducting registration review for meptyldinocap.

**DATES:** Comments must be received on or before January 21, 2020.

**ADDRESSES:** Submit your comments, to the docket identification (ID) number for the specific pesticide of interest provided in the Table in Unit IV, by one of the following methods:

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

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

**FOR FURTHER INFORMATION CONTACT:**

*For pesticide specific information, contact:* The Chemical Review Manager for the pesticide of interest identified in the Table in Unit IV.

*For general questions on the registration review program, contact:* Melanie Biscoe, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 305–7106; email address: *biscoe.melanie@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, farm

worker, 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. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager identified in the Table in Unit IV.

*B. What should I consider as I prepare my comments for the EPA?*

1. *Submitting CBI.* Do not submit this information to the EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

## II. Background

Registration review is the EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Registration review dockets contain information that will assist the public in understanding the types of information and issues that the agency may consider during the course of registration reviews. As part of the registration review process, the Agency has completed preliminary workplans for all pesticides listed in the Table in Unit IV. Through this program, the EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

## III. Authority

The EPA is conducting its registration review of the chemicals listed in the Table in Unit IV pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

## IV. Registration Reviews

*A. What action is the agency taking?*

A pesticide's registration review begins when the agency establishes a docket for the pesticide's registration review case and opens the docket for public review and comment. Pursuant to 40 CFR 155.50, this notice announces the availability of the EPA's preliminary work plans for the pesticides shown in the following table and opens a 60-day public comment period on the work plans. This notice also announces the availability of EPA's draft ecological risk assessment for the pesticide pyrimethanil and opens a 60-day public comment period on the draft risk assessment.

| Registration review case name and number | Docket ID No. | Chemical review manager and contact information |
|---|---|---|
| Pyrimethanil Case 7059 | EPA–HQ–OPP–2019–0380 | Lauren Bailey, *bailey.lauren@epa.gov,* (703) 347–0374. |
| Saflufenacil Case 7278 | EPA–HQ–OPP–2019–0524 | Jonathan Williams, *williams.jonathanr@epa.gov,* (703) 347–0670. |

EPA is also announcing that it will not be opening a docket, nor taking public comments for meptyldinocap. Meptyldinocap is a fungicide used on grapes abroad, and a tolerance was established in 2009 for residues of meptyldinocap on grapes imported into the United States. There are have been no changes since the initial tolerance decision and no changes to the tolerance or tolerance definition are being proposed. Meptyldinocap does not have any products registered in the United States under FIFRA section 3, therefore meptyldinocap is not scheduled for review under the registration review program.

*B. Docket Content*

The registration review docket contains information that the agency may consider in the course of the registration review. The agency may include information from its files including, but not limited to, the following information:

- An overview of the registration review case status.
- A list of current product registrations and registrants.
- **Federal Register** notices regarding any pending registration actions.
- **Federal Register** notices regarding current or pending tolerances.
- Risk assessments.
- Bibliographies concerning current registrations.
- Summaries of incident data.
- Any other pertinent data or information.

Each docket contains a document summarizing what the agency currently knows about the pesticide case and a preliminary work plan for anticipated data and assessment needs. Additional documents provide more detailed information. During this public comment period, the agency is asking that interested persons identify any additional information they believe the agency should consider during the registration reviews of these pesticides. The agency identifies in each docket the areas where public comment is specifically requested, though comment in any area is welcome.

The registration review final rule at 40 CFR 155.50(b) provides for a minimum 60-day public comment period on all preliminary registration review work plans. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary changes to a pesticide's workplan. All comments should be submitted using the methods in **ADDRESSES** and must be received by the EPA on or before the closing date. These comments will become part of the docket for the pesticides included in the Table in Unit IV. Comments received after the close of the comment period will be marked ''late.'' The EPA is not

required to consider these late comments.

The agency will carefully consider all comments received by the closing date and may provide a ''Response to Comments Memorandum'' in the docket. The final registration review work plan will explain the effect that any comments had on the final work plan and provide the agency's response to significant comments.

Background on the registration review program is provided at: *http://www.epa.gov/pesticide-reevaluation.*

**Authority:** 7 U.S.C. 136 *et seq.*

Dated: October 29, 2019.

**Mary Reaves,**

*Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.*

[FR Doc. 2019–25164 Filed 11–19–19; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0768]**

### Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written PRA comments should be submitted on or before January 21, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams, (202) 418–2918.

**SUPPLEMENTARY INFORMATION:**

*OMB Control No.:* 3060–0768.

*Title:* 28 GHz Band Segmentation Plan Amending the Commission's Rules to Redesignate the 27.5–29.5 GHz Frequency Band, to Reallocate the 29.5 to 30.0 GHz Frequency Band and to Establish Rules and Policies.

*Form No.:* None.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit entities.

*Number of Respondents/Responses:* 17 respondents; 17 responses.

*Estimated Time per Response:* 2 hours.

*Frequency of Response:* On occasion reporting requirement; third-party disclosure requirement.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this information collection is contained in 47 U.S.C. 154 and 303.

*Total Annual Burden:* 34 hours.

*Annual Cost Burden:* $4,950.

*Privacy Act Impact Assessment:* No impact(s).

*Nature and Extent of Confidentiality:* In general, there is no need for confidentiality with this collection of information.

*Needs and Uses:* The Federal Communications Commission (''Commission'') is requesting an extension of the information collection titled, ''28 GHz Band'' under OMB Control No. 3060–0768 from the Office of Management and Budget (OMB).

The information collection requirements contained in this collection require are as follows: (1) Local Multipoint Distribution Systems (LMDS) licensees to serve copies of their applications on all Non-Geostationary Mobile Satellite Service (NGSO/MSS) applicants (Section 101.147) and (2) NGSO/MSS feeder link earth stations must specify a set of geographic coordinates for location of these earth stations, 15 days after the release of a public notice announcing commencement of LMDS auctions (Section 101.147).

The information is used by the Commission and other applicants and/or licensees in the 28 GHz band to facilitate technical coordination of systems among applicants and/or licensees in the 28 GHz band. Without such information, the Commission could not implement the Commission's band plan. Affected applicants and licensees are required to provide the requested information to the Commission and other third parties whenever they seek authority to provide service in the 28 GHz band. The frequency of filing is, in general, determined by the applicant or licensees. If this information is compiled less frequently or not filed in conjunction with our rules, applicants and licensees will not obtain the authorization necessary to provide telecommunications services. Furthermore, the Commission would not be able to carry out its mandate as required by statute and applicants and licensees would not be able to provide service effectively.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2019–25132 Filed 11–19–19; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0398]**

### Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility;

the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written comments should be submitted on or before December 20, 2019. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov*. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

**SUPPLEMENTARY INFORMATION:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection.

*Comments are requested concerning:* Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

*OMB Control Number:* 3060–0398.

*Title:* Sections 15.117(g)(2), 15.201(a), 15.201(d), 15.211, 15.213 and 15.221(c))—Equipment Authorization Measurement Standards.

*Form No.:* N/A.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit entities.

*Number of Respondents and Responses:* 250 respondents; 250 responses.

*Estimated Time per Response:* 15.4 hours (average).

*Frequency of Response:* On occasion, and one-time reporting requirements, recordkeeping requirement and third-party disclosure requirement.

*Obligation to Respond:* Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 4(i), 302, 303(c), 303(f), 303(g) and 303(r), and 309(a).

*Total Annual Burden:* 3,850 hours.

*Total Annual Cost:* $50,000.

*Privacy Act Impact Assessment:* No impact (s).

*Nature and Extent of Confidentiality:* There is a minimal exemption from the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(4) and 47 CFR 0.459(d) of the Commission's rules that is granted for trade secrets, which may be submitted to the Commission as part of the documentation of the test results. No other assurances of confidentiality are provided to respondents.

*Needs and Uses:* The Commission will submit this information collection after this 60 day comment period to obtain the full three year clearance from the Office of Management and Budget (OMB). There is a change in the Commission's estimated respondents/responses and/or total annual burden hours.

To ensure that technical standards are applied uniformly, the Commission requires respondents to follow appropriate equipment authorization procedures specified in subpart J of part 2 of the Commission's rules. These requirements require manufacturers to comply with certain information collection requirements common to all equipment.[1] In addition to these general requirements, the responsible parties for certain types of equipment must maintain special records as specified by the requirements for those devices.

(a) 47 CFR 15.117(g)(2) of the Commission's rules requires that the responsible party (usually the manufacturer) for equipment insert in its files a statement explaining the basis on which the manufacturer relies to ensure that at least 97.5% of all production units of the test sample that are manufactured have a noise figure of no greater than 14 dB.

(b) 47 CFR 15.201(a) requires that devices operated under the provisions of 47 CFR 15.211, 15.213 and 15.221 of the Commission's rules comply with certain additional requirements.

(c) The Commission's rules permit the operation of field disturbance sensors in the low VHF region of the spectrum, subject to requirements in 47 CFR 15.201(d).

(1) Such systems have the potential for interfering with television broadcasting and other radio communication signals.

(2) The Commission requires a unique procedure for on-site testing and compliance verification of these systems to ensure that suitable safeguards are in place for the operation of these devices in the VHF range of the spectrum.

The Commission is seeking the Office of Management and Budget (OMB) approval to revise the information collection requirements contained in OMB Control No. 3060–0387 and consolidate them into this collection. After OMB approval is received, the FCC will discontinue OMB Control No. 3060–0387 and have it removed from OMB's Active Inventory.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2019–25130 Filed 11–19–19; 8:45 am]

**BILLING CODE 6712–01–P**

[1] See OMB Information Collection 3060–0057, 3060–0329 and 3060–0636.

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0207]**

### Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written comments should be submitted on or before December 20, 2019. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page <*http://www.reginfo.gov/public/do/PRAMain*>, (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

**SUPPLEMENTARY INFORMATION:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection.

*Comments are requested concerning:* Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

*OMB Control Number:* 3060–0207.

Title: Part 11—Emergency Alert System (EAS), Order, FCC 19–57.

*Form No.:* N/A.

*Type of Review:* Revision of currently approved collection.

*Respondents:* Business or other for-profit; Not-for-profit institutions; State, Local, or Tribal Government.

*Number of Respondents and Responses:* 63,084 respondents; 3,588,830 responses.

*Estimated Time per Response:* 0.017 hours—0.68 hours.

*Frequency of Response:* Recordkeeping requirement and third-party disclosure requirements.

*Obligation to Respond:* Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 154(i) and 606 of the Communications Act of 1934, as amended.

*Total Annual Burden:* 140,751 hours.

*Total Annual Cost:* No Cost.

*Privacy Act Impact Assessment:* No Impact(s).

*Nature and Extent of Confidentiality:* Logged information on receipt of the weekly test by Satellite Digital Audio Radio Service (SDARS) providers is retained for two years at the provider's headquarters, and available for public inspection upon reasonable request.

*Needs and Uses:* Part 11 contains rules and regulations addressing the nation's Emergency Alert System (EAS). The EAS provides the President with the capability to provide immediate communications and information to the general public during periods of national emergency over broadcast television and radio, cable, direct broadcast radio and other EAS Participants, as defined in Section 11.11(a) of the Commission's rules The EAS also provides state and local governments and the National Weather Service with the capability to provide immediate communications and information to the public concerning emergency situations posing a threat to life and property. Part 11 includes testing requirements to ensure proper and efficient operation of the EAS.

In the Order, EB Docket No. 04–296, PS Docket No. 15–94, FCC 19–57, the Commission amended the Part 11 EAS testing requirements applied to SDARS providers to (i) eliminate requiring SDARS providers to transmit weekly tests in favor of requiring them to only log receipt of the weekly test, and (ii) eliminate the requirement that SDARS providers transmit monthly test on all channels in favor of requiring them to transmit the monthly test on 10% of all of their channels, with channels tested varying from month to month, so that over the course of a given year, 100% of all of its channels are tested.

The Commission seeks OMB approval of these rule amendments as a modification of a previously approved information collection. These changes to the SDARS testing requirements were specifically requested by the lone entity authorized to provide SDARS service in the U.S. The amendments harmonize the EAS testing requirements applied to SDARS service with those applied to the similarly situated Direct Broadcast Satellite (DBS) service. Further, the changes to the SDARS test requirements represent a net reduction in the burden imposed on SDARS providers (of which there is only one). Specifically, the modified monthly test requirements for SDARS do not eliminate monthly

testing but likely make such testing less burdensome to administer and schedule. The weekly test requirement for SDARS of substituting logging of receipt of a weekly test for conducting the weekly test, represents a reduced burden, as EAS equipment automatically records when weekly tests are received. Further, not having to transmit the EAS header codes and End of Message (EOM) code on all channels randomly once per week relieves the SDARS provider from having to coordinate and administer such testing.

Because the reduced burden is *de minimis* relative to the aggregate estimated in-house cost to all regulated entities subject to weekly EAS testing requirements, we are not seeking to change the currently approved burden inventory. Specifically, the currently approved burden for conducting weekly tests has been established at 0.017 hours per week, for 40 weeks (weekly tests are not required for the week in which a monthly test is conducted); thus, the annual burden for SDARS providers to conduct weekly tests is 0.68 hours, at an estimated annual in-house cost of $26 ((0.68) × ($38 per hour)). While it seems likely that this annual cost will be lessened under the modified weekly testing requirement—to some figure between $0 and $26—given that there is only one SDARS provider, that amount will be *de minimis* relative to the total estimated in-house cost to all respondents (currently approved at 42,840 hours at an aggregate cost of $1,627,920).

The following information collections contained in Part 11 may be impacted by the rule amendments described herein. The revised EAS testing requirements for SDARS providers affect one entity, who formally requested adoption of such amendments. As described above, the revised requirements represent a net reduction in burdens to SDARS providers. The rule amendments may impact currently existing paperwork collection requirements as discussed below.

Section 11.35 requires that all EAS Participants (the entities required to transmit federal EAS alerts) are responsible for ensuring that EAS Encoders/Decoders and Attention Signal generating and receiving equipment used as part of the EAS are installed so that the monitoring and transmitting functions are available during the times the stations/systems are in operation. EAS Participants must determine the cause of any failure to receive the required tests or activations. When the EAS is not operating properly, section 11.35 requires appropriate entries be made in the station/system logs indicating why any tests were not received for all broadcast streams and cable systems. All other EAS Participants must also keep record indicating reasons why any tests were not received and these records must be retained for two years, maintained at the EAS Participant's headquarters, and made available for public inspection upon reasonable request.

Section 11.61 requires EAS Participants to conduct periodic EAS tests. Tests of the EAS header codes, attention signal, test script and EOM code are required to be performed monthly. Tests of the EAS header codes and end of message codes are made at least once a week. National primary sources shall participate in tests as appropriate. DBS providers, Class D non-commercial educational FM stations and low power TV stations are not required to transmit this test but must log receipt of the test in conformance with Section 11.35. The FCC may request a report of the tests of the national primary sources. In addition, entries must be made in stations/systems logs/records as previously stated.

This information is used by FCC staff as part of routine inspections of EAS Participants. Accurate recordkeeping of this data is vital in determining the location and nature of possible equipment failure on the part of the transmitting or receiving entity. Furthermore, since the national level EAS is solely for the President's use, its proper operation must be assured.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2019–25131 Filed 11–19–19; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0095]**

### Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

**DATES:** Written PRA comments should be submitted on or before January 21, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060–0095.

*Title:* Multi-Channel Video Programming Distributors Annual Employment Report, FCC Form 395–A.

*Form Number:* FCC Form 395–A.

*Type of Review:* Extension of currently approved collection.

*Respondents:* Business or other for-profit entities; Not for profit institutions.

*Number of Respondents and Responses:* 2,500 respondents; 2,500 responses.

*Estimated Time per Response:* One hour.

*Frequency of Response:* Recordkeeping requirement and annual reporting requirement.

*Total Annual Burden:* 2,500 hours.

*Total Annual Cost:* None.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this collection of

information is contained in Section 154(i) and 634 of the Communications Act of 1934, as amended.

*Nature and Extent of Confidentiality:* There is no need for confidentiality with this information collection.

*Privacy Impact Assessment(s):* No Impact(s).

*Needs and Uses:* FCC Form 395–A, ''The Multi-Channel Video Programming Distributor Annual Employment Report,'' is a data collection device used to assess industry employment trends and provide reports to Congress. The report identifies employees by gender and race/ethnicity in sixteen job categories. FCC Form 395–A contains a grid which collects data on full and part-time employees and requests a list of employees by job title, indicating the job category and full or part-time status of the position. Every cable entity with 6 or more full-time employees and all Satellite Master Antenna Television Systems (SMATV) serving 50 or more subscribers and having 6 or more full-time employees must complete Form 395–A in its entirety and file it by September 30 each year. However, cable entities with 5 or fewer full-time employees are not required to file but if they do, they need to complete and file only Sections I, II and VIII of the FCC Form 395–A, and thereafter need not file again unless their employment increases.

On June 4, 2004, the FCC released the Third Report and Order and Fourth Notice of Proposed Rulemaking (3rd R&O), In the *Matter of Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies, MM Docket No. 98–204, FCC 04–103,* in which it considers issues relating to the Annual Employment Report forms, including FCC Form 395–A, ''The Multi-Channel Video Programming Distributor Annual Employment Report.'' In the 3rd R&O, the Commission is adopting revised rules for MVPDs to file FCC Form 395–A, which cable and other MVPDs will use to file annual employment reports. The intent of this 3rd R&O is to update rules for MVPDs to file Form 395–A consistent with new rules adopted in the 2nd R&O. The intent of the Fourth Notice of Proposed Rulemaking is to provide time for cable and other MVPDs and the public to address the issue of whether the Commission should keep these forms confidential after they are filed. With the effective date of the rule revisions adopted in the 3rd R&O, MVPDs and broadcasters must start keeping records of their employees so they can prepare their annual employment reports due to be filed on September 30 each year.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2019–25133 Filed 11–19–19; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL RESERVE SYSTEM

### Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

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

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) adopted a proposal to implement the Single-Counterparty Credit Limits reporting form (FR 2590; OMB No. 7100–NEW). The first data collection will occur as of the end of the first quarter of 2020 for respondents that are U.S. and foreign global systemically important bank holding companies (G–SIBs), and as of the end of the third quarter of 2020 for all other respondents.

**FOR FURTHER INFORMATION CONTACT:** Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, or by telephone to (202) 452–3829.

Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files. These documents also are available on the Federal Reserve Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

**SUPPLEMENTARY INFORMATION:** On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are placed into OMB's public docket files.

**Final Approval Under OMB Delegated Authority of the Implementation of the Following Information Collection**

*Report title:* Single-Counterparty Credit Limits.

*Agency form number:* FR 2590.

*OMB control number:* 7100–NEW.

*Effective Date:* The first data collection will occur as of the end of the first quarter of 2020 for respondents that are U.S. and foreign G–SIBs, and as of the end of the third quarter of 2020 for all other respondents.

*Frequency:* Quarterly, annual, and event-generated.

*Respondents:* U.S. bank holding companies (BHCs) and savings and loan holding companies (SLHCs) that are subject to Category I, II, or III standards; foreign banking organizations (FBOs) that are subject to Category II or III standards or that have $250 billion or more in total global consolidated assets; and U.S. intermediate holding companies (IHCs) that are subject to Category II or III standards.

*Estimated number of respondents:* 75.

*Estimated average hours per response:*

**Reporting**

*One-time implementation:* 1,273 hours.

*Ongoing:* 254 hours.

*Requests for temporary relief:* 10 hours.

**Recordkeeping**

*Recordkeeping:* 0.25 hours.

*Estimated annual burden hours:*

**Reporting**

*One-time implementation:* 95,475 hours.

*Ongoing:* 76,200 hours.

*Requests for temporary relief:* 30 hours.

**Recordkeeping**

*Recordkeeping:* 75 hours.

*General description of report:* The FR 2590 is being implemented in connection with the Board's single-counterparty credit limits rule (SCCL rule),[1] which has been codified in the Board's Regulation YY—Enhanced Prudential Standards (12 CFR part 252).[2]

The information collected by the Single-Counterparty Credit Limits

[1] 83 FR 38460 (Aug. 6, 2018).

[2] *See* 12 CFR 252, subparts H and Q. The Board's SCCL rule was amended by the Board's recent rule establishing risk-based categories for determining prudential standards for large U.S. banking organizations and foreign banking organizations. 84 FR 59032 (Nov. 1, 2019).

reporting form (FR 2590 report) will allow the Board to monitor a covered company's or a covered foreign entity's compliance with the SCCL rule. As amended by the Board's final tailoring rule, a covered company is any U.S. bank holding company (BHC) or savings and loan holding company (SLHC) that is subject to Category I, II, or III standards.[3] A covered foreign entity is any foreign banking organization (FBO) that is subject to Categories II or III standards or that has total global consolidated assets that equal or exceed $250 billion and any U.S. intermediate holding company (IHC) that is subject to Category II or III standards.[4] In addition to the reporting form, the FR 2590 information collection incorporates notice requirements pertaining to requests that may be made by a covered company or covered foreign entity to request temporary relief from specific requirements of the SCCL rule. A respondent must retain one exact copy of each completed FR 2590 in electronic form, and these records must be kept for at least three years.

*Legal authorization and confidentiality:* The FR 2590 is authorized pursuant to section 5(c) of the Bank Holding Company Act of 1956 (BHC Act) (12 U.S.C. 1844(c)) for BHCs and section 10(b) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)) for SLHCs. With respect to FBOs and their subsidiary IHCs, the FR 2590 is authorized pursuant to section 5(c) of the BHC Act, in conjunction with section 8 of the International Banking Act of 1978 (12 U.S.C. 3106). The FR 2590 is mandatory.

The data collected on the FR 2590 report will be kept confidential under exemption 4 of the Freedom of Information Act (FOIA), which protects from disclosure trade secrets and commercial or financial information (5 U.S.C. 552(b)(4)), and exemption 8 of FOIA, which protects from disclosure information related to the supervision or examination of a regulated financial institution (5 U.S.C. 552(b)(8)).

Regarding notices associated with requests for temporary relief from specific requirements of the SCCL rule, a firm may request confidential treatment under the Board's rules regarding confidential treatment of information at 12 CFR 261.15. The Board will consider whether such information may be kept confidential in accordance with exemption 4 of FOIA (5 U.S.C. 552(b)(4)) or any other applicable FOIA exemption.

*Current actions:* On August 6, 2018, the Board published a notice in the **Federal Register** (83 FR 38303) requesting public comment for 60 days on the implementation of the FR 2590. The comment period for this notice expired on October 5, 2018. The Board received two comment letters in response to the proposal to implement FR 2590.

Commenters generally requested that the required number of reported counterparties be lowered to only the top 20 counterparties plus certain other counterparties to whom exposure is more than 10 percent of the firm's tier 1 capital or capital stock and surplus, as applicable, and that proposed data fields beyond those required to monitor compliance with the SCCL rule (including those seeking data on exposures to counterparties that are excluded or exempt under the SCCL rule) be removed. The Board continues to believe it is appropriate to require a firm to report its top 50 counterparties, as that would provide the Board with greater ability to monitor a wider network of counterparty relationships and potential channels of contagion, consistent with the SCCL rule. Further, requiring a firm to report its top 50 counterparties will enhance a substantial supervisory interest in identifying where similar risks occur in different forms across a firm's balance sheet, which, for instance, may influence the future design of different stress testing counterparty default scenarios. The Board also believes it is appropriate to require firms to report exposures to excluded or exempt counterparties in order to help ensure that firms properly calculate their exposures for purposes of the SCCL rule. The Board notes that the Basel Committee on Banking Supervision's large exposure standard (BCBS Large Exposure Standard) includes certain reporting requirements related to excluded and exempt entities. Therefore, the Board has not made any changes to the FR 2590 in response to these comments.

Commenters also sought clarification on the process by which FBOs could comply with the SCCL rule's requirements with respect to their combined U.S. operations by certifying that they meet limits established by home country supervision frameworks consistent with the BCBS Large Exposure Standard, as well as the reporting requirements associated with such certification. The reporting form includes a checkbox that FBOs can use to indicate that they meet the requirements of a home country supervisory regime consistent with the BCBS Large Exposure Standard. Further, the preamble to the SCCL rule clarifies that submission of the FR 2590 report with this box checked generally will be sufficient to meet the reporting requirements of the SCCL rule with respect to the single-counterparty credit limits that apply to an FBO's combined U.S. operations. However, an FBO may be required to provide additional information or reporting concerning its counterparty credit exposures upon written request by the Board.

Commenters further requested that the Board permit the executive officer responsible for oversight of compliance or for preparation of the reporting form, rather than the Chief Financial Officer, to sign the FR 2590 report and that firms be permitted to maintain an electronic rather than a hard copy of the form for their records. In addition, commenters requested certain technical corrections and clarifications to the form's fields (*e.g.,* headers, titles) and instructions. In response to these comments, the FR 2590 report permits the executive officer responsible for SCCL compliance or the Chief Financial Officer (or an individual performing this equivalent function) to sign the form certifying compliance, electronic submission of the form, and the maintenance of electronic, rather than hard copy, forms.

In addition to comments on the proposed form, commenters also requested changes to the SCCL rule. One commenter requested that the Board delay implementation of the SCCL rule until the Board finalizes its proposals to tailor enhanced prudential standards applicable to U.S. BHCs, savings and loan holding companies, and FBOs with operations in the United States. Commenters further requested that the Board permit the U.S. IHCs of FBOs to value certain credit exposures for purposes of the SCCL rule using models approved by the FBOs' home country supervisors. The Board has determined that these comments, which relate to the content of the SCCL rule itself, are outside of the scope of the Board's Paperwork Reduction Act review of the FR 2590.[5] The Board notes also that it finalized its rule to tailor enhanced prudential standards to those entities on October 10, 2019.[6] Commenters also requested that the Board permit an FBO to comply with the SCCL rule, with respect to its combined U.S. operations, through certification concerning its home country supervision framework

[3] 12 CFR 252.70, 252.170; *see also* 84 FR 59032 (Nov. 1, 2019).

[4] *Id.*

[5] A similar comment concerning the use of models approved by foreign supervisors was received and discussed in connection with the Board's finalization of the SCCL rule. 83 FR 38460, 38490 (Aug. 6, 2018).

[6] 84 FR 59032 (Nov. 1, 2019).

prior to effectiveness of the home country supervision framework, so long as the home country supervisor is working towards a framework consistent with the BCBS Large Exposure Standard or, in the alternative, to extend the initial compliance dates for FBOs to comply with the SCCL applicable to their U.S. operations. The Board has proposed separately to amend the SCCL rule to extend the initial compliance dates for FBOs to comply with the SCCL applicable to their U.S. operations published elsewhere in this issue of the **Federal Register**. Therefore, no changes to the FR 2590 report have been made in response to this comment at this time.

Board of Governors of the Federal Reserve System, November 8, 2019.

**Ann Misback,**

*Secretary of the Board.*

[FR Doc. 2019–24967 Filed 11–19–19; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The 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 paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Federal Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than December 5, 2019.

*A. Federal Reserve Bank of Kansas City* (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *David S. Fricke, Topeka, Kansas;* as Plan Administrator of the Commerce Bank and Trust Holding Company Employee Stock Ownership Plan, to acquire voting shares of Commerce Bank and Trust Holding Company and thereby indirectly acquire voting shares of CoreFirst Bank & Trust, both of Topeka, Kansas.

Board of Governors of the Federal Reserve System, November 14, 2019.

**Yao-Chin Chao,**

*Assistant Secretary of the Board.*

[FR Doc. 2019–25143 Filed 11–19–19; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, 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 Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than December 19, 2019.

*A. Federal Reserve Bank of Minneapolis* (Mark A. Rauzi, Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *American Bancor, Ltd., Dickinson, North Dakota;* to acquire Beartooth Financial Corporation, and thereby indirectly acquire Beartooth Bank, both of Billings, Montana.

Board of Governors of the Federal Reserve System, November 14, 2019.

**Yao-Chin Chao,**

*Assistant Secretary of the Board.*

[FR Doc. 2019–25141 Filed 11–19–19; 8:45 am]

**BILLING CODE P**

## FEDERAL TRADE COMMISSION

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request

**AGENCY:** Federal Trade Commission.

**ACTION:** Notice and request for comment.

**SUMMARY:** The Federal Trade Commission (''FTC'' or ''Commission'') requests that the Office of Management and Budget (''OMB'') extend for an additional three years the current Paperwork Reduction Act (''PRA'') clearance for information collection requirements in its ''Used Motor Vehicle Trade Regulation Rule'' (''Used Car Rule'' or ''Rule''), which applies to used vehicle dealers. The existing clearance expires on December 31, 2019.

**DATES:** Comments must be submitted on or before December 20, 2019.

**ADDRESSES:** Comments in response to this notice should be submitted to the OMB Desk Officer for the Federal Trade Commission within 30 days of this notice. You may submit comments using any of the following methods:

*Electronic:* Write ''Used Car Rule, PRA Comment, FTC File No. P137606,'' on your comment and file your comment online at *https://www.regulations.gov,* by following the instructions on the web-based form.

*Email: MBX.OMB.OIRA.Submission@OMB.eop.gov.*

*Mail:* Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Scott, (312) 960–5609, Attorney, Midwest Region, Federal Trade Commission, 230 South Dearborn Street, Suite 3030, Chicago, IL 60604.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FTC has submitted to the Office of Management and Budget (''OMB'') this request for extension of the previously approved collection of information discussed below.

*Title:* Used Motor Vehicle Trade Regulation Rule.

*OMB Control Number:* 3084–0108.

*Type of Review:* Extension of currently approved collection.

*Estimated Total Annual Hours Burden:* 2,368,993.

The component tasks associated with the Rule's required display of Buyers

Guides include: (1) Ordering and stocking Buyers Guides; (2) entering data on Buyers Guides; (3) displaying the Buyers Guides on vehicles; (4) revising Buyers Guides as necessary; and (5) complying with the Rule's requirements for sales conducted in Spanish.

1. *Ordering and Stocking Buyers Guides:* Staff has estimated that used car dealers should need no more than an average of two hours per year to obtain Buyers Guides, which are readily available from many commercial printers or can be produced by an office word-processing or desk-top publishing system.[1] Based on an estimated population of 53,779 dealers, the annual hours burden for producing or obtaining and stocking Buyers Guides is 107,558 hours.

*2. Entering Data on Buyers Guides:* Staff estimates that dealers will require an average of two minutes per Buyers Guide to enter applicable data on Buyers Guides. For used cars sold under warranty, the time required to check the ''Warranty'' box and to add warranty information, such as the additional information required in the Percentage of Labor/Parts and the Systems Covered/Duration sections of the Buyers Guide, will depend on whether the dealer uses a manual or automated process or Buyers Guides that are pre-printed with the dealer's standard warranty terms. Staff estimates that these tasks will take an average of one additional minute, *i.e.,* cumulatively, an average total time of three minutes for each used car sold under warranty.

Staff estimates that dealers sell approximately fifty percent of used cars ''as is'' and the other half under warranty. Therefore, staff estimates that the overall time required to enter data on Buyers Guides consists of 486,906 hours for used cars sold without a warranty (29,214,371 vehicles × 50% × 2 minutes per vehicle) and 730,359 hours for used cars sold under warranty (29,214,371 vehicles × 50% × 3 minutes per vehicle) for a cumulative estimated total of 1,217,265 hours.

3. *Displaying Buyers Guides on Vehicles:* Although the time required to display the Buyers Guides on each used car may vary, FTC staff estimates that dealers will spend an average of 1.75 minutes per vehicle to match the correct Buyers Guide to the vehicle and to display it on the vehicle. The estimated burden associated with this task is approximately 852,086 hours for the estimated 29,214,371 vehicles sold annually (29,214,371 vehicles × 1.75 minutes per vehicle).

4. *Revising Buyers Guides as Necessary:* If negotiations between the buyer and seller over warranty coverage produce a sale on terms other than those originally entered on the Buyers Guide, the dealer must revise the Buyers Guide to reflect the actual terms of sale. According to the original rulemaking record, bargaining over warranty coverage rarely occurs. Staff notes that consumers often do not need to negotiate over warranty coverage because they can find vehicles that are offered with the desired warranty coverage online or in other ways before ever contacting a dealer. Accordingly, staff assumes that dealers will revise the Buyers Guide in no more than two percent of sales, with an average time of two minutes per revision. Therefore, staff estimates that dealers annually will spend approximately 19,476 hours revising Buyers Guides (29,214,371 vehicles × 2% × 2 minutes per vehicle).

5. *Spanish Language Sales:* The Rule requires dealers to make contract disclosures in Spanish if the dealer conducts a sale in Spanish.[2] The Rule permits displaying both an English and a Spanish language Buyers Guide to comply with this requirement.[3] Many dealers with large numbers of Spanish-speaking customers likely will post both English and Spanish Buyers Guides to avoid potential compliance violations.

Calculations from United States Census Bureau surveys indicate that approximately 5.4 percent of the United States population speaks Spanish at home, without also speaking fluent English.[4] Staff therefore projects that dealers will conduct approximately 5.4 percent of used car sales in Spanish. Dealers will incur the additional burden of completing and displaying a second Buyers Guide in 5.4 percent of sales assuming that dealers choose to comply with the Rule by posting both English and Spanish Buyers Guides. The annual hours burden associated with completing and displaying Buyers Guides is 2,069,351 hours (1,217,265 hours for entering data on Buyers Guides + 852,086 hours for displaying Buyers Guides). Therefore, staff estimates that the additional burden caused by the Rule's requirement that dealers display Spanish language Buyers Guides when conducting sales in Spanish is 111,745 hours (2,069,351 hours × 5.4% of sales). The other components of the annual hours burden, *i.e.,* purchasing Buyers Guides and revising them for changes in warranty coverage, remain unchanged.

6. *Optional Disclosures of Non-Dealer Warranties:* The Rule does not require dealers to disclose information about non-dealer warranties, but provides dealers with the options to disclose such warranties on Buyers Guides. FTC staff has estimated that dealers will make the optional disclosures on 25% of used cars offered for sale. Staff believes that checking the optional boxes to disclose a non-dealer warranty should require dealers no more than 30 seconds per vehicle. Accordingly, based on 29,214,371 used cars sold, staff estimates that making the optional disclosures entails a burden of 60,863 hours (25% × 29,214,371 vehicles sold × 1/120 hour per vehicle).

*Annual labor cost:* $40,083,362.

FTC staff's labor cost estimates are derived by applying appropriate hourly cost figures to the burden hours described above. Staff has determined that all of the tasks associated with ordering forms, entering data on Buyers Guides, posting Buyers Guides on vehicles, and revising them as needed, including the corresponding tasks associated with Spanish Buyers Guides and providing optional disclosures about non-dealer warranties, are typically done by clerical or low-level administrative personnel. Using a clerical cost rate of $16.92 per hour[5] and an estimated burden of 2,368,993 hours for disclosure requirements, the total labor cost burden is $40,083,362 ($16.92 per hour × 2,368,993 hours).

**Request for Comment**

On August 8, 2019, the Commission sought comment on the information collection requirements associated with the Used Car Rule. 84 FR 38979 (Aug. 8, 2019). No relevant comments were received. Pursuant to the OMB regulations, 5 CFR part 1320, that implement the PRA, 44 U.S.C. 3501 *et seq.,* the FTC is providing this second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for those information collection requirements. An agency may not conduct or sponsor, and a person is not required to respond to a collection

[1] Buyers Guides are also available online from the FTC's website, *www.ftc.gov,* at *http://business.ftc.gov/selected-industries/automobiles.*

[2] 16 CFR 455.5.

[3] *Id.*

[4] U.S. Census Bureau, TableB16001. *Language Spoken at Home. 2017 American Community Survey 1-Year Estimates,* available at: *https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_11_1YR_B16001&prodType=table* (last visited June 7, 2019) (5.4% of the United States population 5 years or older who speaks Spanish or Spanish Creole in the home speaks English less than ''very well.'').

[5] The hourly rate is based on the Bureau of Labor Statistics estimate of the mean hourly wage for office clerks, general. *Occupational Employment and Wages, May 2018, 43–9061 Office Clerks, General,* available at: *https://www.bls.gov/oes/current/oes439061.htm#nat.*

of information unless it displays a valid OMB control number.

Your comment—including your name and your state—will be placed on the public record of this proceeding. Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is . . . privileged or confidential'' as provided in Section 6(f) of the FTC Act 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns devices, manufacturing processes, or customer names.

**Heather Hippsley,**

*Deputy General Counsel.*

[FR Doc. 2019–25110 Filed 11–19–19; 8:45 am]

**BILLING CODE 6750–01–P**

## FEDERAL TRADE COMMISSION

**[File No. 162 3130]**

### InfoTrax Systems, L.C. and Mark Rawlins; Analysis To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement; Request for comment.

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before December 20, 2019.

**ADDRESSES:** Interested parties may file comments online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''InfoTrax Systems, L.C. and Mark Rawlins; File No. 162 3130'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** Andrea Arias (202–326–2715), Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for November 12, 2019), on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before December 20, 2019. Write ''InfoTrax Systems, L.C. and Mark Rawlins; File No. 162 3130'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''InfoTrax Systems, L.C. and Mark Rawlins; File No. 162 3130'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the

news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before December 20, 2019. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

**Analysis of Proposed Consent Order To Aid Public Comment**

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an agreement containing a consent order from InfoTrax Systems, L.C. (''InfoTrax'') and Mark Rawlins (collectively ''Respondents'').

The proposed consent order (''proposed order'') has been placed on the public record for thirty (30) days for receipt of comments from interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter involves InfoTrax, a technology company that provides backend operations systems and online distributor tools for the direct sales industry. Respondents have stored personal information about more than eleven million consumers.

The Commission's proposed complaint alleges that Respondents violated Section 5(a) of the Federal Trade Commission Act (''FTC Act''). The proposed complaint alleges that Respondents engaged in a number of unreasonable security practices and that, as a result of these practices, an intruder, or intruders, were able to gain unauthorized access to consumers' personal information in March 2016. During multiple breaches, intruder(s) accessed and/or downloaded the personal information of over one million consumers. The types of information exposed included full names; physical addresses; email addresses; telephone numbers; Social Security Numbers (''SSNs'') or other government identification numbers; clients' distributors' user IDs and passwords; admin IDs and passwords; payment card information including credit or debit card numbers, Card Verification Values (''CVVs'') and expiration dates; and bank account information including bank account and routing numbers. (However, a particular individual's record does not necessarily contain every one of these data types.)

The proposed complaint alleges that Respondents:

- Failed to have a systematic process for inventorying and deleting consumers' personal information stored on InfoTrax's network that is no longer necessary;
- Failed to adequately assess the cybersecurity risk posed to consumers' personal information stored on InfoTrax's network by performing adequate code review of InfoTrax's software, and penetration testing of InfoTrax's network and software;
- Failed to detect malicious file uploads by implementing protections such as adequate input validation;
- Failed to adequately limit the locations to which third parties could upload unknown files on InfoTrax's network;
- Failed to adequately segment InfoTrax's network to ensure that one client's distributors could not access another client's data on the network;
- Failed to implement safeguards to detect anomalous activity and/or cybersecurity events. For example, Respondents failed to: (1) Implement an intrusion prevention or detection system to alert Respondents of potentially unauthorized queries and/or access to InfoTrax's network; (2) use file integrity monitoring tools to determine whether any files on InfoTrax's network had been altered; and (3) use data loss prevention tools to regularly monitor for unauthorized attempts to exfiltrate consumers' personal information outside InfoTrax's network boundaries; and
- Stored consumers' personal information, including consumers' SSNs, payment card information (including full or partial credit card and debit card numbers, CVVs, and expiration dates), bank account information (including account and routing numbers), and authentication credentials such as user IDs and passwords, in clear, readable text on InfoTrax's network.

The proposed complaint alleges that Respondents could have addressed each of the failures described above by implementing readily available and relatively low-cost security measures.

The proposed complaint alleges that Respondents' failure to employ reasonable data security practices to protect personal information—including names, addresses, SSNs, other government identifiers, and financial account information—caused or is likely to cause substantial injury to consumers that is not outweighed by countervailing benefits to consumers or competition and is not reasonably avoidable by consumers themselves. Respondents' failure to employ reasonable data security practices constitutes an unfair act or practice under Section 5 of the FTC Act.

The proposed order contains injunctive provisions addressing the alleged unfair conduct. Part I of the proposed order prohibits each Covered Business from transferring, selling, sharing, collecting, maintaining, or storing personal information unless each Covered Business establishes and implements, and thereafter maintains, a comprehensive information security program that protects the security, confidentiality, and integrity of such personal information.[1]

Part II of the proposed order requires Respondents to obtain initial and biennial data security assessments for twenty (20) years.

Part III of the proposed order requires Respondents to disclose all material facts to the assessor; prohibits Respondents from misrepresenting any fact material to the assessments required by Part II; and requires Respondents to provide or otherwise make available to the assessor all information and material that is relevant to the assessment for which there is no reasonable claim of privilege.

Part IV requires Respondents to submit an annual certification from a senior corporate manager (or senior officer of each Covered Business responsible for each Covered Business's information security program) that: (1) Each Covered Business has implemented the requirements of the Order; (2) each Covered Business is not aware of any material noncompliance that has not been corrected or disclosed to the Commission; and (3) includes a brief description of any covered incident involving unauthorized access to or acquisition of personal information.

Part V requires Respondents to submit a report to the Commission of the discovery of any covered incident.

Parts VI through IX of the proposed order are reporting and compliance provisions, which include recordkeeping requirements and provisions requiring Respondents to provide information or documents necessary for the Commission to

[1] ''Covered Business'' includes InfoTrax; any business that InfoTrax controls, directly or indirectly; and any business that Mr. Rawlins controls, directly or indirectly, except for the businesses that own, lease, and/or operate a campground in Bunkerville, Nevada, and solely to the extent that the businesses are engaged in the operation of that campground.

monitor compliance. Part X states that the proposed order will remain in effect for twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

By direction of the Commission.

**Joel Christie,**

*Acting Secretary.*

[FR Doc. 2019–25109 Filed 11–19–19; 8:45 am]

**BILLING CODE 6750–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–20–20BY; Docket No. CDC–2019–0104]**

### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS)

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Pilot Project: Work Organization Risks to Short-haul Truck Drivers' Health & Safety. This study is designed to assess how local/short haul drivers perceive their work environments, and how that relates to their well-being.

**DATES:** CDC must receive written comments on or before January 21, 2020.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2019–0104 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov.*

*Please note: Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.*

**FOR FURTHER INFORMATION:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

5. Assess information collection costs.

**Proposed Project**

*Pilot Project:* Work Organization Risks to Short-haul Truck Drivers' Health & Safety—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

Commercial truck drivers face widely acknowledged safety risks on the job and are at an increased risk for heart disease, diabetes, hypertension, and obesity. Long and irregular work hours, lack of breaks, inadequate sleep, and little access to exercise facilities and healthy eating options contribute to drivers' health and safety problems. Additionally, health complications of obesity (*e.g.,* sleep apnea, type II diabetes) place truckers at even greater risk of roadway crashes. Much of what we know about work and health is based on knowledge gleaned from research on long-haul commercial drivers. Local short haul drivers are those who generally return home each night after work, and who travel no more than 150 miles from the employer's terminal each day (whereas long-haul drivers are away from home for long periods of time and drive much greater distances daily). This research addresses a gap in knowledge and responds to stakeholders' requests for research that examines work organization in local short-haul commercial driving. The purpose of this data collection is to learn more about the local short-haul trucking industry and how the complex interplay between job design and individual health behaviors affects the safety, health, and well-being of commercial drivers. NIOSH is requesting a 12-month OMB approval.

A survey will be used to collect cross-sectional data from 300 local short-haul commercial drivers. Drivers will answer questions about work design, organizational policies, occupational stressors, physical health, safety, and mental well-being. The data collected will be used to characterize work organization in local short-haul commercial driving, and analyzed to examine the association between work design and driver physical health, mental health, well-being, and safety.

Stakeholders in trucking associations have agreed to promote participation in the study amongst their member organizations. A sample of 300 drivers will be recruited from across several commercial driving companies over a six-month time period. This is a cross-sectional survey. Drivers will complete the survey only one time. It is estimated that the survey will take about 30 minutes to complete. All responses are anonymous, and no personally identifiable information will be collected. There are no costs to

respondents other than their time. The total estimated burden requested from respondents is 149 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|---|---|---|---|---|---|
| Screening of Drivers | Screening | 300 | 1 | 5/60 | 25 |
| L/SH Truck Drivers | Hardcopy Survey Sections 1–7 | 297 | 1 | 25/60 | 124 |
| Total | | | | | 149 |

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2019–25148 Filed 11–19–19; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30Day–20–0987]**

### 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 Qualitative Information Collection on Emerging Diseases among the Foreign-born in the US 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 August 8, 2019 to obtain comments from the public and affected agencies. CDC received two non-substantive 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**

**Qualitative Information Collection on Emerging Diseases Among the Foreign-born in the US**

*(OMB Control No. 0920–0987, Exp. 12/31/2019)—Extension—Division of Global Migration and Quarantine (DGMQ), National Center for Emerging Zoonotic and Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC)*

**Background and Brief Description**

The Centers for Disease Control and Prevention (CDC), National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Division of Global Migration and Quarantine (DGMQ), requests approval for an extension of the current generic information collection; Qualitative Information Collection on Emerging Diseases among the Foreign-born in the US.

This qualitative data collection is needed by DGMQ because foreign-born individuals are considered hard-to-reach populations and are often missed by routine information collection systems in the United States. As a consequence, limited information is available about the health status, knowledge, attitudes, health beliefs, and practices related to communicable diseases and other emerging health issues (*e.g.,* tuberculosis, parasitic diseases, lead poisoning, and mental health issues) among foreign-born populations in the United States. Foreign-born populations are very diverse in terms of countries of origin, socio-demographic, cultural and linguistic characteristics and geographic destinations in the U.S. Data is especially limited at the local level.

The purpose of the extension is to continue efforts to improve the agency's understanding of the health status, risk factors for disease, and other health outcomes among foreign-born individuals in the United States. Numerous types of data will be collected under the auspices of this generic information collection. These include, but are not limited to, knowledge, attitudes, beliefs, behavioral intentions, practices, behaviors, skills, self-efficacy, and health information needs and sources.

Under the terms of this generic, CDC will employ focus groups and key informant interviews to collect information. Depending on the specific purpose, the information collection may be conducted either in-person, by telephone, on paper, or online. For each generic information collection, CDC will submit to OMB the project summary and information collection tools. CDC requests a total of 550 respondents and 450 burden hours annually. The respondents to these information collections are foreign-born individuals in the United States. There is no cost to respondents other than the time required to provide the information requested.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) |
|---|---|---|---|---|
| Foreign-born from specific country of birth in the United States. | Screeners for focus groups (assuming 2 screenings for each recruited participant in focus groups) (150 × 2 = 300). | 300 | 1 | 10/60 |
| Foreign-born from specific country of birth in the United States. | Focus Groups (Approximately 15 focus groups/year and 10 participants per focus group). | 150 | 1 | 2 |
| Foreign-born community leaders and staff from organizations serving those communities. | Key informant interviews (Approximately 100 interviews/year). | 100 | 1 | 1 |

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2019–25147 Filed 11–19–19; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30Day–20–19GH]**

### 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 Evaluating the implementation and impact of a fall prevention program, including opioid medication management, in a hospital discharge setting, 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 02/07/2019 to obtain comments from the public and affected agencies. CDC received three 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**

Evaluating the implementation and impact of an opioid medication management program, in a hospital discharge setting, to reduce falls in older adults—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

Over one in four older adults report a fall, and one in 10 report a fall injury each year. Falls result in serious injuries. They are the leading cause of traumatic brain injuries in older adults and 95% of hip fractures in older adults are due to falls.

Certain types of medications, known as psychoactive medications, have been associated with an increased fall risk in older adults. Psychoactive medications, including opioids and benzodiazepines, affect the central nervous system and can cause side effects such as dizziness, sedation, confusion, blurred vision, and orthostatic hypotension. Opioid prescribing in emergency department settings, inpatient settings, and at hospital discharge settings is very common and may increase future chronic opioid use. Studies have shown that opioid treatments in older adults are associated with significantly increased risk of falls, injurious falls, and fractures.

This data collection will perform a formative evaluation of the implementation and impact of a fall prevention program in a hospital discharge setting at the University of California, San Francisco (UCSF). Components of the program will target opioid medication management in the acute and post-acute settings and referral to clinically effective programs to reduce the risk of falls and opioid misuse. A total of four questionnaires will be administered. (1) The Pre-discharge patient questionnaire will be used to survey older adults at University of California San Francisco (UCSF) Medical Center while in the hospital (before discharge). The questionnaire includes 47 questions and is expected to take approximately 10 minutes to complete. (2) The Post-discharge patient questionnaire will be used to survey the older adults that completed the pre-discharge survey three additional times (at 14, 30 and 60 days) after being discharged from UCSF Medical Center. This questionnaire includes 60 questions and is expected to take approximately 10 minutes to complete. (3) The UCSF Clinical staff evaluation questionnaire will be used to survey clinical staff at the UCSF Medical Center. The questionnaire includes 31 questions and is expected to take approximately five minutes to complete. (4) The Primary Care Provider (PCP) post-discharge questionnaire will be used to survey primary care providers

involved in the care of patients discharged from USCF. The questionnaire includes 11 questions and is expected to take approximately five minutes to complete.

CDC will use the information collected to: (1) Examine post-discharge use of opioids or alternative therapies for pain management among older adult patients, (2) examine post-discharge compliance and follow up by older adults with primary care doctors and/or specialist referrals for pain management and fall prevention efforts, (3) identify rate of readmission for a fall by level of patient compliance and follow-up post-discharge, (4) evaluate the uptake of the program by clinical staff, and (5) identify opportunities for program and process improvement.

The data collection proposed by this project represents the first federal effort to monitor use of opioids and other pain relief strategies through implementation of the fall prevention and opioid management initiative in a hospital discharge setting to measure impact on older adult health outcomes. The total estimated annualized burden hours is 541. There are no costs to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondent | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) |
|---|---|---|---|---|
| Older adult Patients | Pre-discharge Patient Questionnaire | 800 | 1 | 10/60 |
| | Post-discharge Patient Questionnaire | 800 | 3 | 10/60 |
| UCSF clinical staff | Clinical Staff Evaluation Questionnaire | 50 | 1 | 5/60 |
| Primary care providers (PCP) | PCP post discharge survey | 50 | 1 | 5/60 |

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2019–25152 Filed 11–19–19; 8:45 am]

**BILLING CODE 4163–19–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Request for Information; Innovative Approaches and Knowledge Gaps Related To Enhancing Nonresident Parents' Ability To Support Their Children Economically and Emotionally

**AGENCY:** Administration for Children and Families; HHS.

**ACTION:** Request for public comment.

**SUMMARY:** Through this Request for Information (RFI), the Administration for Children and Families (ACF), in the U.S. Department of Health and Human Services (HHS), seeks to further the development of employment programs for nonresident parents by soliciting information and recommendations from a broad array of stakeholders in the public and private sectors, including state, regional, tribal, and local areas. The Foundations for Evidence-Based Policymaking Act of 2018 (Evidence Act) requires federal agencies to develop evidence-building plans to identify and address policy questions relevant to programs, policies, and regulations of the agency. In this vein, ACF will analyze information collected from this RFI to continue developing a learning and action agenda to better understand the effectiveness of employment programs for nonresident parents.

**DATES:** Send comments on or before March 6, 2020.

**ADDRESSES:** Submit questions, comments, and supplementary documents to *nonresidentemploymentRFI@acf.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Invitation to Comment:* HHS invites comments regarding the questions included in this notice. To ensure that your comments are clearly stated, please identify the specific question, or other section of this notice, that your comments address.

#### 1.0 Background

A key responsibility of all parents is to economically support their children, whether or not they live with them. Parents are better able to fulfill this responsibility when they are working regularly. While the Temporary Assistance for Needy Families (TANF) program has encouraged parents receiving government assistance (who are typically custodial mothers) to pursue employment, increasing work among nonresident parents (who are typically fathers and not receiving assistance) remains a challenge. An analysis by the federal Office of Child Support Enforcement (OCSE) estimates that in 2015, 13% of noncustodial parents had been out of work for at least a year.

ACF recently issued three Information Memorandums to encourage states to provide employment services to noncustodial parents. TANF–ACF–IM–18–01 reminded states that they may use federal TANF funds and state maintenance-of-effort funds to provide employment services to noncustodial parents (please see *https://www.acf.hhs.gov/ofa/resource/tanf-acf-im-2018-01the-use-of-tanf-funds-to-promote-employment-programs-for-noncustodial-parents*). OCSE–ACF–IM–18–02 encouraged states to use IV–D incentive funds to promote noncustodial parent work activities (please see *https://www.acf.hhs.gov/css/resource/use-of-iv-d-incentive-funds-for-ncp-work-activities*). OCSE–ACF–IM–19–04 conveys that HHS is prepared to review requests for demonstration waivers that would allow states and tribes to fund employment programs for noncustodial parents, under section 1115 of the Social Security Act (please see *https://www.acf.hhs.gov/css/resource/availability-of-section-1115-waivers-to-fund-ncp-work-activities*).

Child support programs typically refer to parents in the program who live apart from their children and are expected to pay child support as ''noncustodial parents.'' We use a broader term—nonresident parents—to reflect ACF's interest in soliciting information about and recommendations of employment programs that target all parents who live apart from one or more of their children, regardless of their participation in the child support program.

Prior research has found that employment programs for nonresident parents can be successful at improving employment opportunities for parents. OCSE sponsored the Child Support Noncustodial Parent Employment Demonstration, which tested the effectiveness of child support-led employment programs. The evaluation found that this program increased the employment and earnings of

noncustodial parents, satisfaction with the child support program, and parent-child contact. Other recent evidence is from the Parents and Children Together Evaluation, which examined the effectiveness of four Responsible Fatherhood programs funded by ACF's Office of Family Assistance. The evaluation found that the programs improved aspects of fathers' parenting behavior, employment, and knowledge of the child support program. Two additional demonstrations, the Enhanced Transitional Jobs Demonstration and the Subsidized and Transitional Employment Demonstration, examined the effectiveness of subsidized employment. Four sites in the demonstrations focused on serving noncustodial parents. The evaluation found that subsidized employment programs in the study increased the earnings of noncustodial parents and increased the consistency of paying formal child support during the final year of the 30-month follow-up period.

**2.0 Request for Information**

Through this RFI, ACF is soliciting ideas and information from a broad array of stakeholders on improving nonresident parents' employment outcomes, including how to create a comprehensive, multi-system approach that addresses multiple barriers that nonresident parents face when trying to support their children. Although the primary aim of this RFI is to understand further how employment programs can increase nonresident parents' ability to economically support their children, we recognize that nonresident parents are parents first and may also face barriers to supporting their children emotionally. Consequently, we are not only interested in information and recommendations on programs that focus exclusively on employment services, but we are also interested in programs that provide employment services combined with parenting or other activities aimed at promoting father involvement and healthy relationships in children's lives.

The Evidence Act (Pub. L. 115–435) requires federal agencies to develop evidence-building plans to identify and address policy questions relevant to programs, policies, and regulations of the agency. Responses to this RFI will inform ACF's ongoing development of a learning and action agenda on employment programs for nonresident parents. This RFI is for information and planning purposes only and should not be construed as a solicitation or as an obligation on the part of ACF or HHS.

We ask respondents to address the following questions. You do not need to address every question, and should focus on those where you have relevant expertise or experience. In your response, please provide a brief description of yourself or your organization before addressing the questions.

**3.0 Key Questions**

*3.1* In your opinion, what are the core components necessary for an employment program to be effective for nonresident parents? Please provide evidence that supports your opinion.

*3.2* In your opinion, what factors have either facilitated or hindered the implementation of employment programs for nonresident parents?

*3.3* Please describe existing, promising employment programs/services for nonresident parents that may include, but are not limited to, work readiness training, occupational/sector-based training, job search assistance, subsidized employment, or other employment services. When describing the program, please include the following:

*a.* Target population,

*b.* Structure and organizational context of the program,

*c.* Roles and responsibilities of the lead agency and any partner agency,

*d.* Services provided, and

*e.* Any evidence of the program's effectiveness.

*3.4* What role has job training, both in the classroom and on-the-job, played in effective employment programs for nonresident parents?

*3.5* What role has activities aimed at parenting and promoting father involvement and healthy relationships in children's lives played in effective employment programs for nonresident parents?

*3.6* To what extent do services need to vary depending on the subpopulation of nonresident parents being served? Please explain what services you believe are better suited for which subpopulations. Subpopulations could include, but are not limited to, noncustodial parents, parents with criminal records and/or a history of incarceration, young/teen parents, and parents with children by multiple partners, etc.

*3.7* What are the key barriers that nonresident parents face when trying to secure or maintain employment to support their children financially? We are interested in hearing about both individual- and system-level barriers that nonresident parents may face to financially supporting their children, such as those related to transportation, education, housing, employment history, child access, child support debt, criminal record, fees/fines/restitution debt, substance use or mental health disorders, etc.

*3.7.1* What specific approaches have you seen programs use to address these barriers? Please provide any evidence on the effectiveness of these approaches in improving parents' financial support for their children.

*3.8* In your experience, what types of agencies or organizations should be active partners in an employment program for nonresident parents? Which type of agency is most successful in the lead role?

*3.9* Please describe ways to create more systematic relationships between child support agencies and employment service providers that might increase the take-up of employment services among nonresidential parents or increase child support compliance among noncustodial parents in employment programs, etc.

*3.10* If you are a government official or a practitioner, what additional information would you like to have about approaches to providing or implementing employment programs for nonresident parents?

*3.11* What aspects of employment programs for nonresident parents would benefit from further evaluation?

*3.12* What suggestions do you have for how federal, state, regional, tribal, and local governments could support the development of high-quality employment programs for nonresident parents and/or address gaps in current efforts?

**Authority:** Social Security Act § 413 (Title IV–A: Block Grants to States for the Temporary Assistance of Needy Families) [42 U.S.C. 613].

**Mary B. Jones,**

*ACF/OPRE Certifying Officer.*

[FR Doc. 2019–25157 Filed 11–19–19; 8:45 am]

**BILLING CODE 4184–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2018–N–4626]**

### List of Bulk Drug Substances for Compounding Office Stock Drugs for Use in Nonfood-Producing Animals or Antidotes for Food-Producing Animals; Request for Nominations

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice; request for nominations.

**SUMMARY:** FDA is establishing a public docket for interested parties to nominate bulk drug substances or renominate bulk drug substances that were previously nominated without adequate supporting information, for inclusion on a list of bulk drug substances for compounding certain animal drugs without a patient specific prescription (*i.e.,* office stock) for use in nonfood-producing animals or as antidotes for food-producing animals, as described in the draft guidance for industry #256, ''Compounding Animal Drugs from Bulk Drug Substances,'' when that guidance is finalized. Individuals may also comment on bulk drug substances that have been reviewed by FDA and added to this list, or nominations that are currently under FDA review.

**DATES:** You may submit either electronic or written nominations and comments at any time.

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

*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 in the following ways:

- *Mail/Hand Delivery/Courier (for 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–2018–N–4626 for ''List of Bulk Drug Substances for Compounding Office Stock Drugs for Use in Nonfood-Producing Animals or Antidotes for Food-Producing Animals.'' 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 nominations and 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:** Eric Nelson, Division of Compliance (HFV–230), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–7001, *cvmcompliance@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

Except with respect to the limited exemption provided by the Federal Food, Drug, and Cosmetic Act (FD&C Act) described in the following paragraph, statutory provisions applicable to manufactured animal drugs under the FD&C Act also apply to animal drugs compounded from bulk drug substances.

Sections 512(a)(4) and (5) of the FD&C Act (21 U.S.C. 360b(a)(4) and (5)) provide a limited exemption from certain requirements for compounded animal drugs made from already FDA-approved animal or human drugs. Such use is considered an extralabel use. The FD&C Act provides that a compounded drug is exempt from the approval requirements in section 512(a) of the FD&C Act and requirements for adequate directions for use in section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)) if it meets the conditions set out in the statute and the extralabel use regulations at 21 CFR part 530.

Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of draft guidance for industry #256 entitled ''Compounding Animal Drugs from Bulk Drug Substances'' (GFI #256).[1] The draft guidance describes circumstances under which FDA, based on our current understanding of the risks of animal drugs compounded from bulk drug substances, does not intend to take action against pharmacists in either State-licensed pharmacies or Federal facilities, or veterinarians, who compound animal drugs from bulk drug substances. If the draft guidance is finalized, FDA would not intend to take action under sections 512(a), 501(a)(5), 502(f), and 501(a)(2)(B) of the FD&C Act so long as such compounding is done under the approach described in draft GFI #256.

## II. Nominating Bulk Drug Substances

In a **Federal Register** notice published on May 19, 2015 (80 FR 28622), FDA invited all interested parties to nominate bulk drug substances for inclusion on a list of bulk drug substances that could be used by outsourcing facilities registered under the FD&C Act to compound animal drugs under the conditions described in draft GFI #230, ''Compounding Animal

[1] Draft GFI #256 can be found at *https://www.fda.gov/animal-veterinary/guidance-industry/guidance-number.*

Drugs from Bulk Drug Substances'' (announced in the same issue of the **Federal Register** (80 FR 28624)) (the 2015 request for nominations notice).

Although that draft guidance was subsequently withdrawn in November 2017, FDA received over 30 comments containing nominations for multiple bulk drug substances in response to the 2015 request for nominations notice. FDA's approach for evaluating whether to include a bulk drug substance on the list described in the 2015 request for nominations notice is substantially the same as the approach below for including a bulk drug substance on the list of bulk drug substances for compounding certain animal drugs without a patient specific prescription (*i.e.,* office stock) for use in nonfood-producing animals or antidotes for food-producing animals in accordance with FDA's draft guidance for industry #256 (the List). As a result, CVM intends to include on the List the eight bulk drug substances that FDA previously determined met the approach set out in the now withdrawn 2015 draft guidance. To the extent these substances and conditions of use meet the approach of the final guidance, FDA intends to include them on the List when the draft guidance is finalized.

- *Apomorphine hydrochloride—Indication:* For the induction of emesis in dogs. Dosage form: 6.25 mg subconjunctival tablets, 3.125–6.25 milligrams/milliliters (mg/ml) subconjunctival solution, and 2.5 mg/ml injectable solution.
- *Cisapride—Indication:* For the management of gastrointestinal motility disorders in cats. Dosage form: 2.5 & 5 mg oral tablets, 2.5 & 5 mg oral capsules, 5–10 mg/ml oral suspension.
- *Dipyrone—Indication:* For the treatment of severe, acute fever in dogs suffering from Shar-Pei Fever. Dosage form: 250 mg/ml and 500 mg/ml injectable solution.
- *Guaifenesin—Indication:* For muscle relaxation in the horse during anesthetic induction and/or surgery. Dosage form: 50 g soluble powder to be reconstituted into a solution for IV infusion with the addition of 500 ml (10%) or 1000 ml (5%) sterile diluent.
- *Miconazole nitrate—Indication:* For the treatment of fungal keratitis in horses. Dosage form: 1% or 2% miconazole nitrate ophthalmic solution or ophthalmic ointment.
- *Potassium bromide—Indication:* For initiation of treatment for seizures in dogs. Dosage form: 250 mg/ml oral solution.
- *Tacrolimus—Indication:* For treatment of dogs with keratoconjunctivitis sicca that is non-responsive to cyclosporine. Dosage form: 0.01–0.03% tacrolimus ophthalmic drops.
- *Metronidazole benzoate—Indication:* For the treatment of feline inflammatory bowel disease in cats. Dosage form: 80 mg/ml oral suspension.

The docket used to collect the previous nominations is now closed for comment. However, FDA is establishing a new public docket so that interested parties can nominate bulk drug substances, re-nominate bulk drug substances with adequate supporting information that were previously nominated without adequate supporting information, or comment on the eight previously nominated bulk drug substances that FDA intends to add to the List when the draft guidance is finalized. This docket will remain open indefinitely so that individuals may nominate and comment on bulk drug substances at any time.

*When will FDA include a bulk drug substance on the list of bulk drug substances for compounding office stock drugs for use in nonfood-producing animals or antidotes for food-producing animals?*

FDA intends to include a bulk drug substance on the List when:

1. There is no marketed FDA-approved, conditionally approved, or indexed animal drug that can be used as labeled to treat the condition;

2. There is no marketed FDA-approved animal or human drug that could be used in an extralabel manner under section 512(a)(4) or (a)(5) of the FD&C Act and part 530 to treat the condition;

3. The drug cannot be compounded from a legally marketed FDA-approved, conditionally approved, or indexed animal or human drug;

4. Immediate treatment with the compounded drug is necessary to avoid animal suffering or death; and

5. FDA has not identified a significant safety concern specific to the use of the bulk drug substance to compound animal drugs (under the listed conditions and limitations).

For bulk drug substances for compounding drugs intended for use as antidotes in food-producing animals in addition to the above:

6. There is sufficient scientific information for the veterinarian to determine appropriate withdrawal, withholding, or discard time(s) for meat, milk, eggs, or any food which might be derived from the treated animal(s).

*How do I submit a nomination for the list?*

You may submit nominations and comments to the docket through *https://www.regulations.gov.* The information to support nominations can be uploaded as attachments to your comment. The docket number is FDA–2018–N–4626.

You may submit written submissions to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All submissions must include the Docket No. FDA–2018–N–4626 for ''List of Bulk Drug Substances for Compounding Office Stock Drugs for Use in Nonfood-Producing Animals or Antidotes for Food-Producing Animals.''

*What information should I submit with the nomination?*

You may nominate specific bulk drug substances for inclusion on the List. Each bulk drug substance should be submitted to the docket as its own, separate nomination. Submissions to the docket containing more than one bulk drug substance will not be considered an adequate nomination and will not be reviewed. In addition, nominations will only be evaluated if they are for specific substances that meet the definition of a bulk drug substance.[2] Nominated substances that do not meet this definition will not be evaluated for inclusion on the List.

For FDA to evaluate a bulk drug substance for inclusion on the List, you should submit the following information about the bulk drug substance and the compounded animal drug in the nomination:

1. Confirmation That the Nominated Substance is a Bulk Drug Substance: A

[2] FDA regulations define ''bulk drug substance'' and ''active pharmaceutical ingredient'' as ''any substance that is intended for incorporation into a finished drug product and is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body.'' The terms do not include intermediates used in the synthesis of the substance. 21 CFR 207.1. ''Active ingredient'' is defined as ''any component that is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body of man or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug product and be present in the drug product in a modified form intended to furnish the specified activity or effect.'' 21 CFR 210.3(b)(7). Any component other than an active ingredient is an ''inactive ingredient'' (21 CFR 210.3(b)(8)). Inactive ingredients used in compounded drug products commonly include flavorings, dyes, diluents, or other excipients. In addition, for purposes of evaluating nominations, FDA considers bulk chemicals used to make antidotes intended to treat toxicoses in animals to be bulk drug substances.

statement that the nominated substance meets the definition of bulk drug substance.

2. Description of the Bulk Drug Substance:

(a) Chemical name(s);

(b) common name(s);

(c) chemical grade (*e.g.,* USP–NF, ACS, etc.);

(d) description of the strength, stability, purity; and

(e) how the bulk drug substance is supplied (*e.g.,* powder, liquid).

3. Description of the Animal Drugs That Will be Compounded With the Bulk Drug Substance:

(a) dosage form(s) into which the bulk drug substance will be compounded (*e.g.,* capsule, tablet, suspension);

(b) strength(s) of the compounded drug(s); and

(c) intended route(s) of administration of the compounded drug(s).

4. Information Requested for FDA to Evaluate Bulk Drug Substances for Inclusion on the List:

(a) the species and condition(s) that the drug to be compounded with the nominated bulk drug substance is intended to treat;

(b) a bibliography of scientific literature containing safety and effectiveness data for the drug compounded using the nominated substance;

(c) a list of animal drugs, if any, that are FDA-approved, conditionally approved, or indexed for the condition(s) in the species that the drug compounded with the nominated substance is intended to address;

(d) if there are marketed FDA-approved, conditionally approved, or indexed drugs that address the same condition(s) in the same species, an explanation, supported by relevant scientific literature or other evidence, of why a compounded drug is necessary (*e.g.,* why the FDA-approved, conditionally approved, or indexed drug is not suitable for a particular animal population);

(e) confirmation, using supporting evidence, that there are no marketed FDA-approved animal or human drugs that could be prescribed in an extralabel manner under section 512(a)(4) and (a)(5) of the FD&C Act and 21 CFR part 530 to treat the condition(s) in the species that the drug compounded with the nominated substance is intended to address;

(f) If the bulk drug substance is an active ingredient in a marketed FDA-approved, conditionally approved, or indexed animal or human drug, an explanation, supported by appropriate scientific data or information, of why the animal drug cannot be compounded from the marketed FDA-approved, conditionally approved, or indexed animal or human drug.

(g) An explanation, supported by relevant scientific literature or other evidence, of why the animal drug to be compounded with the nominated bulk drug substance must be available to the veterinarian for immediate treatment to avoid animal suffering or death. Nominations should include specific information documenting that animal suffering or death will result if treatment is delayed until a compounded animal drug can be obtained pursuant to a prescription for an individually identified animal; and

(h) A description of any human user or animal safety concerns associated with use of the nominated bulk drug substance or finished compounded drug for the condition(s) in the species that the compounded drug is intended to address. If there are concerns, an explanation, supported by scientific literature or other evidence, of why the concerns should not preclude inclusion of that bulk drug substance on the List.

(i) For compounded drugs intended for use as antidotes to treat toxicoses in food-producing animals, relevant scientific literature or other evidence that demonstrates that the prescribing veterinarian has a basis for determining appropriate withdrawal, withholding, or discard time(s) for meat, milk, eggs, or any food which might be derived from the treated animal(s).

Dated: November 14, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019–25140 Filed 11–19–19; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2019–N–5157]**

### 2019 Public Meeting on Center for Drug Evaluation and Research Standard Core Sets: Clinical Outcome Assessments and Endpoints Grant Program; Public Meeting; Request for Comments

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of public meeting; request for comments.

**SUMMARY:** The Food and Drug Administration (FDA, the Agency, or we) is announcing the following public meeting entitled ''2019 Public Meeting on CDER Standard Core Sets: Clinical Outcome Assessments and Endpoints Grant Program.'' The purpose of the public meeting is to help ensure that as standard core sets of clinical outcome assessments (COAs) are developed as part of the FDA pilot grant program, the identified concepts, COAs, and endpoints reflect what is most important to patients and relevant to regulatory and potentially other stakeholder decision making. To facilitate this, stakeholders including patients, care partners, FDA reviewers, drug developers, other government and academic researchers, health care providers, health technology assessors and health payers are encouraged to attend the meeting.

**DATES:** The public meeting will be held on December 5, 2019, from 8:30 a.m. to 12 p.m. Submit either electronic or written comments on this public meeting by January 6, 2020. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

**ADDRESSES:** The public meeting will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993. Entrance for the public meeting participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *https://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before January 6, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of January 6, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

*Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your

comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

*Written/Paper Submissions*

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

*Instructions:* All submissions received must include the Docket No. FDA–2019–N–5157 for ''2019 Public Meeting on CDER Standard Core Sets: Clinical Outcome Assessments and Endpoints Grant Program.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Meena Savani, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6306, Silver Spring, MD 20993–0002, 240–402–1348, *CDER_StandardCoreCOAs@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

As part of our Patient Focused Drug Development efforts, FDA developed a pilot grant program to support the development of publicly available standard core set(s) of COAs and their related endpoints for specific disease indications. On September 11, 2019, the FDA made three awards under this grant program in the areas of: (1) Migraine, (2) acute pain in infants and young children, and (3) physical function across a range of chronic conditions.

The purpose of this public meeting is to ensure that, as these standard core sets of clinical outcome assessments are developed, the identified concepts, COAs, and endpoints reflect what is most important and relevant to patients and support regulatory and potentially other stakeholder decision making.

COAs are often endpoints in clinical trials used to support drug approval and labeling claims or other communications regarding clinical benefit. Clinical benefit is defined as a positive clinically meaningful effect of an intervention on how an individual feels, functions, or survives. FDA uses COAs primarily to determine whether a drug has been shown to provide clinical benefit to patients. Severity of side effects or treatment burden can also be measured by COAs.

A standard core set of COAs can include different types of COAs such as patient-reported outcome (PRO), clinician-reported outcome (ClinRO), observer-reported outcome (ObsRO), and performance outcome (PerfO) instruments and their related endpoints. These sets should assess a minimum list of impacts that matter most to patients, are likely to demonstrate change (including differences in trial arms related to disease burden, treatment burden, and if applicable, physical function), and should be assessed during a clinical trial. A standard core set might be relevant across several disease populations or subgroups or be focused on attributes of a specific disease.

## II. Topics for Discussion at the Public Meeting

This meeting will provide an opportunity for grantees funded as part of the FDA Standard Core COAs and Endpoints Pilot Grant Program to share their development plans for the standard core COA sets and to receive feedback from stakeholders. FDA will provide an introduction and discuss plans for the pilot grant program including future public meetings.

## III. Participating in the Public Meeting

*Registration:* Persons interested in attending this public meeting in person or via webcast must register online at *https://standard_core_coa_grant_program.eventbrite.com* by December 2, 2019, at 11:59 p.m. Eastern Time. Registration is free and based on space availability, with priority given to early registrants. Early registration for in person attendance is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation when they have been accepted. If time and space permit, onsite registration on the day of the public meeting/public workshop will be provided beginning at 8 a.m.

If you need special accommodations due to a disability, please contact Meena Savani no later than November 29, 2019.

*Streaming Webcast of the Public Meeting:* This public meeting will also be webcast. Webcast information will be provided upon completion of registration.

If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* To get a quick overview of the Connect Pro

program, visit *https://www.adobe.com/go/connectpro_overview.* FDA has verified the website addresses in this document, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

*Transcripts:* Please be advised that as soon as a transcript of the public meeting is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff (see **ADDRESSES**). A link to the transcript will also be available on the internet at *https://www.fda.gov/drugs/news-events-human-drugs/public-meeting-cder-standard-core-sets-clinical-outcome-assessments-and-endpoints-grant-program.*

Dated: November 15, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019–25160 Filed 11–19–19; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2018–D–4533]**

### Compounding Animal Drugs From Bulk Drug Substances; Draft Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of draft guidance for industry (GFI) #256 entitled ''Compounding Animal Drugs from Bulk Drug Substances.'' The draft guidance, if finalized, will describe FDA's current thinking about compounding animal drugs from bulk drug substances. FDA has generally exercised enforcement discretion with regard to animal drug compounding from bulk drug substances under certain circumstances when no other medically appropriate treatment options exist. This draft guidance, a continuation of this practice, is intended to provide additional information and clarity to veterinarians and pharmacists about FDA's current thinking with respect to animal drug compounding from bulk drug substances. FDA previously published draft guidance on this issue for public comment in May 2015 (Draft GFI #230, ''Compounding Animal Drugs from Bulk Drug Substances''). We received over 150 comments on that draft guidance. Based on those comments, we decided to withdraw the May 2015 draft guidance and publish this draft guidance for public comment.

**DATES:** Submit either electronic or written comments on the draft guidance by February 18, 2020 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance. Submit either electronic or written comments on the proposed collection of information by February 18, 2020.

**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–2018–D–4533 for ''Compounding Animal Drugs From Bulk Drug Substances.'' 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 Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. 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:** *With regard to this draft guidance:* Eric

Nelson, Division of Compliance (HFV–230), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–7001, *cvmcompliance@fda.hhs.gov.*

*With regard to the proposed collection of information:* Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of draft GFI #256 entitled ''Compounding Animal Drugs from Bulk Drug Substances.'' FDA has generally exercised enforcement discretion with regard to animal drug compounding from bulk drug substances under certain circumstances when no other medically appropriate treatment options exist. This draft guidance, a continuation of this practice, is intended to provide additional information and clarity to veterinarians and pharmacists about FDA's current thinking with respect to animal drug compounding from bulk drug substances. We previously announced the availability of a draft guidance addressing this issue (GFI #230, ''Compounding Animal Drugs from Bulk Drug Substances'') in the **Federal Register** of May 19, 2015 (80 FR 28624). In response to the comments received on GFI #230, we decided not to finalize that draft guidance, and instead are issuing draft GFI #256 for comment. If finalized, this draft guidance will describe the circumstances under which, based on our current understanding of the risks of animal drugs compounded from bulk drug substances, FDA does not intend to take enforcement action against pharmacies and veterinarians who compound animal drugs for violations of the FD&C Act's requirements for: (1) Approval; (2) adequate directions for use; and (3) current good manufacturing practices.

Elsewhere in this issue of the **Federal Register**, FDA is requesting nominations for bulk drug substances to be included on the ''List of Bulk Drug Substances for Compounding Office Stock Drugs for Use in Nonfood-Producing Animals or Antidotes for Food-Producing Animals'' (the List) described in draft GFI #256. That **Federal Register** notice describes information needed by FDA to evaluate nominations and explains when FDA will include bulk drug substances on the List; such nominations will be collected in a separate docket. The List is available at *http://wcms.fda.gov/FDAgov/AnimalVeterinary/ComplianceEnforcement/UnapprovedAnimalDrugs/ucm596211.htm.*

## II. Specific Topic for Comment

In addition to any other comments on the draft guidance, we are specifically requesting comments on section III.A.5 of the draft guidance. That section provides that if a compounded drug contains the same active moiety as a marketed FDA-approved, conditionally approved, or indexed animal drug or an FDA-approved human drug but as a different salt, ester, or other noncovalent derivative, there should be a difference between the compounded drug and the FDA-approved, conditionally approved, or indexed animal drug or FDA-approved human drug that will produce a clinical difference in the patient and the medical rationale is documented in the prescription, or if a veterinarian is compounding the drug, the medical rationale is noted in the patient's medical record.

FDA is concerned that compounding an animal drug using a different salt, ester, or other noncovalent derivative of the same active moiety used in a marketed FDA-approved, conditionally approved, or indexed animal drug or FDA-approved human drug can affect the absorption, distribution, metabolism, excretion, and stability of the compounded animal drug. All of these factors contribute to a drug's safety and effectiveness.

FDA is also concerned that compounding an animal drug from a different salt, ester, or other noncovalent derivative of the same active moiety as a marketed FDA-approved, conditionally approved, or indexed animal drug or FDA-approved human drug may impact the incentives for seeking legal marketing status of a new animal drug (*i.e.,* approval, conditional approval, or indexing). Unlimited compounding using a different salt, ester, or other noncovalent derivative could cause a disincentive for new animal drug sponsors to continue to research and develop innovative new animal drugs.

However, FDA believes that in some cases the prescribing veterinarian may determine that a new animal drug from a different salt, ester, or other noncovalent derivative of the same active moiety as a marketed FDA-approved, conditionally approved, or indexed animal drug or FDA-approved human drug will produce a clinical difference for the identified patient. Under the draft guidance, a pharmacy could compound such an animal drug if the prescribing veterinarian documents such a determination on the prescription, or if a veterinarian is compounding the drug, the medical rationale is noted in the patient's medical record.

FDA invites public comment on this issue.

## III. 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, if finalized, will represent the current thinking of FDA on compounding animal drugs from bulk drug substances. 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

## IV. Paperwork Reduction Act of 1995

This draft guidance contains proposed information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3521). ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** for each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of the proposed collection of information set forth in this document.

With respect to the collection of information associated with this draft guidance, we invite comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the information collected on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

*Title:* Compounding Animal Drugs from Bulk Drug Substances (OMB Control Number 0910–NEW).

*Description of Respondents:* The proposed respondents are pharmacists

in either State-licensed pharmacies or Federal facilities, or veterinarians, who compound animal drugs from bulk drug substances.

*Description:* The Center for Veterinary Medicine has written draft GFI #256 to address a perceived need for Agency guidance in its work with the animal health industry. The draft guidance describes FDA's current thinking, based on our current understanding of the risks of animal drugs compounded from bulk drug substances, and describes the circumstances under which FDA does not intend to take enforcement action against pharmacists and veterinarians who compound animal drugs from bulk drug substances.

FDA estimates the burden of this collection of information as follows:

*Reporting:* The draft guidance contains no new reporting provisions.

*Recordkeeping:* The draft guidance contains a new recordkeeping provision. Our exercise of discretion is dependent upon our ability to assess whether the circumstances under which FDA would intend to exercise such discretion, as described in this draft guidance, exist. FDA staff may use pharmacy and veterinary records, among other things, to determine the circumstances surrounding the compounding activity. Except with regard to one proposed item, the routine business records kept by pharmacists who compound animal drugs from bulk drug substances and veterinarians who compound animal drugs from bulk drug substances, as well as veterinarians prescribing compounded animal drugs within a valid veterinarian-client-patient relationship, should be adequate to demonstrate that the circumstances described in the draft guidance exist.

The draft guidance sets forth circumstances for the compounding of animal drugs from bulk drug substances. Section III.A.4 of the draft guidance provides that if the compounded drug is a copy of a marketed FDA-approved, conditionally approved, or indexed animal drug or an FDA-approved human drug, there is a difference between the compounded drug and the FDA-approved, conditionally approved, or indexed animal drug or the FDA-approved human drug that will produce a clinical difference in the identified patient and the medical rationale is documented in the prescription, or if a veterinarian is compounding the drug, the medical rationale is noted in the patient's medical record. We tentatively conclude that it is usual and customary for veterinarians to document their medical rationale for using such a compounded product as a matter of maintaining an adequate medical record in routine practice; therefore, no burden has been estimated for the time it would take for a veterinarian to make this record.

Section III.A.5 of the draft guidance provides that if the compounded drug contains the same active moiety as a marketed FDA-approved, conditionally approved, or indexed animal drug or an FDA-approved human drug but as a different salt, ester, or other noncovalent derivative, there is a difference between the compounded drug and the marketed FDA-approved, conditionally approved, or indexed animal drug or FDA-approved human drug that will produce a clinical difference in the identified patient. In such a case, the medical rationale is documented in the prescription, or if a veterinarian is compounding the drug, the medical rationale is noted in the patient's medical record. We tentatively conclude that it is usual and customary for veterinarians to document their medical rationale for using such a compounded product as a matter of maintaining an adequate medical record in routine practice; therefore, no burden has been estimated for the time it would take for a veterinarian to make this record.

Section III.A.6 of the draft guidance provides that if the compounded animal drug has any of the same active ingredient moiety(ies) as one or more marketed FDA-approved, conditionally approved, or indexed animal drugs or FDA-approved human drugs, the compounder has determined and documented the reason(s) why the FDA-approved, conditionally approved, or indexed animal drug(s) or FDA-approved human drug(s) cannot be used as the source of the active ingredient(s). We tentatively conclude that it is not usual and customary in routine business practice for a compounder to document that rationale; therefore, we estimate the time it would take for a compounder to make this record, as follows.

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

| Activity | Number of recordkeepers | Number of records per recordkeeper | Total annual records | Average burden per recordkeeping | Total hours |
|---|---|---|---|---|---|
| Compounder recordkeeping to document the rationale (section III.A.6 of the draft guidance). | 7,500 | 1,360 | 10,200,000 | 0.017 (1 minute) ..... | 173,400 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

According to the American Pharmacists Association, of the approximately 56,000 community-based pharmacies in the United States, about 7,500 pharmacies specialize in compounding services.[1] We estimate that veterinarians will write approximately 11,339,400 prescriptions for compounded animal drugs annually, as reported in table 2. Based on our experience with the regulation of compounded animal drugs, we estimate that from 75 to 90 percent of these prescriptions will require the compounder to document the rationale described in section III.A.6 of the draft guidance. Using the upper-bound estimate of 90 percent, approximately 10,205,460 prescriptions (0.90 × 11,339,400 prescriptions) will require compounders to keep the additional record. Dividing these prescriptions equally among the approximately 7,500 compounding pharmacies, we estimate that the 7,500 compounding pharmacies will, on average, each produce approximately 1,360 compounded animal drugs annually for a total of 10,200,000 filled prescriptions. We estimate that it will take approximately 1 minute (0.017 hours) to document the rationale described in section III.A.6 of the draft guidance for each compounded animal drug for a total of 173,400 hours, as reported in table 1.

Section III.C.3 of the draft guidance provides that if the compounded drug is compounded for use as an antidote for food-producing animals, the veterinarian establishes and documents a scientifically based withdrawal time that ensures residues of the antidote and the underlying toxin are not present in the animal at the time of slaughter or the veterinarian ensures the animal does not enter the food supply. We tentatively

[1] American Pharmacists Association, ''Frequently Asked Questions About Pharmaceutical Compounding,'' n.d., *https://www.pharmacist.com/frequently-asked-questions-about-pharmaceutical-compounding* (accessed March 19, 2019).

conclude that it is usual and customary for veterinarians to establish and document a scientifically based withdrawal time as a matter of maintaining an adequate medical record in routine practice; therefore, no burden has been estimated for the time it would take for a veterinarian to make this record.

Under 5 CFR 1320.3(b)(2), the time, effort, and financial resources necessary to comply with a collection of information are excluded from the burden estimate if the reporting, recordkeeping, or disclosure activities needed to comply are usual and customary because they would occur in the normal course of activities. As discussed, we tentatively conclude that it is usual and customary for veterinarians to keep, in the normal course of their activities, the type of records described in the draft guidance in sections III.A.4, III.A.5, and III.C.3; therefore, no burden has been estimated for such veterinary recordkeeping.

*Third-Party Disclosure:* Section III.A.3 of the draft guidance provides that the compounded drug should be dispensed, after receipt of a prescription for an identified patient from the veterinarian acting within a valid veterinarian-client-patient relationship (VCPR), directly to the prescribing veterinarian or to the patient's owner or caretaker. We tentatively conclude that it is usual and customary for veterinarians to write prescriptions for an identified patient in the normal course of their activities; therefore, no burden has been estimated for the time it would take for a veterinarian to write a prescription.

However, the draft guidance sets forth additional third-party disclosure provisions. Section III.A.4 of the draft guidance provides: If the compounded drug is a copy of a marketed FDA-approved, conditionally approved, or indexed animal drug or an FDA-approved human drug, there is a difference between the compounded drug and the FDA-approved, conditionally approved, or indexed animal drug or an FDA-approved human drug that will produce a clinical difference in the identified patient, ''and the medical rationale is documented in the prescription. . . .'' For example, the veterinarian could state that, ''The patient requires a 1.0% solution and the FDA-approved solution is 0.1%.'' In addition, Section III.A.5 of the draft guidance sets forth the following additional third-party disclosure provisions: (1) If the compounded drug contains the same active moiety as a marketed FDA-approved, conditionally approved, or indexed animal drug or an FDA-approved human drug but as a different salt, ester, or other noncovalent derivative; (2) if there is a difference between the compounded drug and the marketed FDA-approved, conditionally approved, or indexed animal drug or FDA-approved human drug that will produce a clinical difference in the identified patient; and (3) ''the medical rationale is documented in the prescription. . . .'' We tentatively conclude that it is not usual and customary for veterinarians to include either one of these medical rationales in a prescription in the normal course of their activities; therefore, we estimate the time it would take for a veterinarian to add a medical rationale to a prescription, as follows.

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

| Activity | Number of respondents | Number of disclosures per respondent | Total annual disclosures | Average burden per disclosure | Total hours |
|---|---|---|---|---|---|
| Statements on prescription (sections III.A.4 and 5 of the draft guidance). | 113,394 | 100 | 11,339,400 | 0.017 (1 minute) ..... | 192,770 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We base our estimate of the number of respondent veterinarians on the American Veterinary Medical Association's Market Research Statistics for 2018.[2] We estimate that approximately 113,394 veterinarians will, on average, each produce approximately 100 prescriptions for compounded animal drugs annually for a total of 11,339,400 prescriptions. We also estimate that it will take approximately 1 minute (0.017 hours) to include the statement discussed in section III.A.5 of the draft guidance on each prescription for a total of 192,769.8 hours, rounded to 192,770 hours third-party disclosure burden, as reported in table 2.

In addition, the draft guidance provides for the labeling of animal drugs compounded from bulk drug substances. The draft guidance indicates in sections III.A.8, III.B.6, and III.C.5 that pharmacists and veterinarians should label the compounded drug with a variety of information including: (1) The name of the drug; (2) the strength of the drug; (3) identifying information about the patient including the species of the patient, the name of the patient, (4) identifier for the individual animal (*e.g.,* horse in stall X), or identification of a group of animals (*e.g.,* dogs in shelter kennel X); (5) indications for which the drug will be used (for certain animal drugs without a patient specific prescription (*i.e.,* office stock) and compounded drugs for use as antidotes for food-producing animals); (6) the name, address, and contact information for the compounding pharmacy or compounding veterinarian and name of prescribing veterinarian (for office stock, the name, address, and contact information for the veterinarian ordering the office stock); (7) the beyond use date; and (8) for compounded drugs for use as antidotes for food-producing animals, the veterinarian-determined withdrawal time. We tentatively conclude that it is usual and customary for pharmacists and veterinarians to include such information on the labels of compounded animal drugs in the normal course of their activities; therefore, no burden has been estimated for the time it would take for such labeling.

Finally, sections III.A.8 and III.C.5 of the draft guidance indicates that pharmacists and veterinarians should include on the label of any compounded animal drug from bulk drug substances these three statements:

- ''Report adverse events to FDA using online Form FDA 1932a'';
- ''This is a compounded drug''; and
- ''Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian.''

Similarly, section III.B.6 of the draft guidance indicates that pharmacists and veterinarians should include on the label of any animal drug compounded from bulk drug substances as office stock these four statements:

[2] The AVMA's Market Research Statistics—U.S. Veterinarians—2018 can be found at this URL: *https://www.avma.org/KB/Resources/Statistics/Pages/Market-research-statistics-US-veterinarians.aspx.*

• ''Report adverse events to FDA using online Form FDA 1932a'';

• ''This is a compounded drug'';

• ''Not for use in food-producing animals''; and

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

We tentatively conclude that these label statements are public disclosures of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public (5 CFR 1320.3(c)(2)) and are therefore not subject to review by OMB under the PRA. Thus, no burden has been estimated for the time it would take for such labeling.

The draft guidance also refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by OMB under the PRA. The collections of information regarding voluntary reporting of adverse drug experiences or product/manufacturing defects on Form FDA 1932a, ''Veterinary Adverse Drug Reaction, Lack of Effectiveness or Product Defect Report,'' have been approved under OMB control number 0910–0284.

Before the proposed information collection provisions contained in this draft guidance become effective, we will publish a notice in the **Federal Register** announcing OMB's decision to approve, modify, or disapprove the proposed information collection provisions. 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.

## V. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm* or *https://www.regulations.gov.*

Dated: November 14, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019–25139 Filed 11–19–19; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2019–N–4187]**

### A New Era of Smarter Food Safety; Extension of Comment Period

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice; extension of comment period.

**SUMMARY:** The Food and Drug Administration (FDA or the Agency) is extending the comment period for the notice of public meeting and request for comments that appeared in the **Federal Register** of September 18, 2019. The notice announced a public meeting entitled ''A New Era of Smarter Food Safety'' that was held on October 21, 2019. In the notice of public meeting and request for comments, FDA requested comments on a modern approach the Agency is taking to strengthen its protection of the food supply to help shape an FDA blueprint for a new era of smarter food safety. The Agency is taking this action in response to requests for an extension to allow interested persons additional time to submit comments.

**DATES:** FDA is extending the comment period on the notice published September 18, 2019 (84 FR 49111). Submit either electronic or written comments by December 5, 2019.

**ADDRESSES:** You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before December 5, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of December 5, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

*Electronic Submissions*

Submit electronic comments in the following way:

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

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

*Written/Paper Submissions*

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

*Instructions:* All submissions received must include the Docket No. FDA–2019–N–4187 for ''A New Era of Smarter Food Safety.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this

information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Susan Kelly, Office of Food Policy and Response, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD, 301–796–1259.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of September 18, 2019, FDA published a notice of public meeting and request for comments with a 30-day comment period after the October 21, 2019, public meeting to request comments on the new era of smarter food safety. Comments on the new era of smarter food safety will shape an FDA blueprint for a new era of smarter food safety.

The Agency has received requests for an extension of the comment period for ''A New Era of Smarter Food Safety; Public Meeting, Request for Comments.'' Each request conveyed concern that the current 30-day comment period following the October 21, 2019, public meeting does not allow sufficient time to develop a meaningful or thoughtful response to the September 18, 2019, notice.

FDA has considered the requests and is extending the comment period for ''A New Era of Smarter Food Safety; Public Meeting, Request for Comments'' for 15 days, until December 5, 2019. The Agency believes that a 15-day extension allows adequate time for interested persons to submit comments without significantly delaying action on these important issues.

Dated: November 14, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019–25123 Filed 11–19–19; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### National Vaccine Injury Compensation Program; List of Petitions Received

**AGENCY:** Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** HRSA is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the Program), as required by the Public Health Service (PHS) Act, as amended. While the Secretary of HHS is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

**FOR FURTHER INFORMATION CONTACT:** For information about requirements for filing petitions, and the Program in general, contact Lisa L. Reyes, Clerk of Court, United States Court of Federal Claims, 717 Madison Place NW, Washington, DC 20005, (202) 357–6400. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 08N146B, Rockville, Maryland 20857; (301) 443–6593, or visit our website at: *http://www.hrsa.gov/vaccinecompensation/index.html.*

**SUPPLEMENTARY INFORMATION:** The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.,* provides that those seeking compensation are to file a petition with the United States Court of Federal Claims and to serve a copy of the petition to the Secretary of HHS, who is named as the respondent in each proceeding. The Secretary has delegated this responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at 42 CFR 100.3. This Table lists for each covered childhood vaccine the conditions that may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that ''[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the **Federal Register**.'' Set forth below is a list of petitions received by HRSA on October 1, 2019, through October 31, 2019. This list provides the name of petitioner, city and state of vaccination (if unknown then city and state of person or attorney filing claim), and case number. In cases where the Court has redacted the name of a petitioner and/or the case number, the list reflects such redaction.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

a. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by'' one of the vaccines referred to in the Table, or

b. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

In accordance with Section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the United States Court of Federal Claims at the address listed above (under the heading ''For Further Information Contact''), with a

copy to HRSA addressed to Director, Division of Injury Compensation Programs, Healthcare Systems Bureau, 5600 Fishers Lane, 08N146B, Rockville, Maryland 20857. The Court's caption (Petitioner's Name v. Secretary of HHS) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

Dated: November 13, 2019.

**Thomas J. Engels,**

*Administrator.*

**List of Petitions Filed**

1. Nicholas L. Domenico, Baltimore, Maryland, Court of Federal Claims No: 19–1514V
2. Elizabeth Allen-Scott on behalf of V. S., New Albany, Indiana, Court of Federal Claims No: 19–1517V
3. Maryann Daugherty, St. Petersburg, Florida, Court of Federal Claims No: 19–1519V
4. Tasha Long, Elgin, Illinois, Court of Federal Claims No: 19–1522V
5. Amelia Lundy, Lexington, Kentucky, Court of Federal Claims No: 19–1523V
6. Stephanie Laszkow, Lakewood, New Jersey, Court of Federal Claims No: 19–1524V
7. Elizabeth Lucas, Newark, California, Court of Federal Claims No: 19–1525V
8. Mona Borden, Littleton, Colorado, Court of Federal Claims No: 19–1526V
9. Judy Minervini, Orlando, Florida, Court of Federal Claims No: 19–1527V
10. Jane Barcomb, Brattleboro, Vermont, Court of Federal Claims No: 19–1528V
11. Maricella Garcia, Corpus Christi, Texas, Court of Federal Claims No: 19–1529V
12. Larese Dockery on behalf of L. J., Fayetteville, Georgia, Court of Federal Claims No: 19–1530V
13. Crystal Weeks, Haughton, Louisiana, Court of Federal Claims No: 19–1531V
14. Jason Craig Townsend, Goldsboro, North Carolina, Court of Federal Claims No: 19–1532V
15. Russell Ahlgrim, Anaheim, California, Court of Federal Claims No: 19–1533V
16. Christina Mitchell, Greensboro, North Carolina, Court of Federal Claims No: 19–1534V
17. Janet Niemi, Waldorf, Maryland, Court of Federal Claims No: 19–1535V
18. De'Ann Zastrow, Greenville, South Carolina, Court of Federal Claims No: 19–1536V
19. Robert Prude, Fontana, California, Court of Federal Claims No: 19–1537V
20. Jean Clappe-Mixell, Port Charlotte, Florida, Court of Federal Claims No: 19–1538V
21. Jamie Washington, Lafayette, Louisiana, Court of Federal Claims No: 19–1539V
22. Bethany Bunce Cunha, Ellicott City, Maryland, Court of Federal Claims No: 19–1542V
23. Elizabeth Johnson, St. Anthony, Minnesota, Court of Federal Claims No: 19–1543V
24. Mary Lou Dvorak, Richmond, Virginia, Court of Federal Claims No: 19–1544V
25. Mei H. Li, Jacksonville, Florida, Court of Federal Claims No: 19–1545V
26. Laura Lancaster, Rancho Santa Margarita, California, Court of Federal Claims No: 19–1546V
27. Chassie Clemens, Cannon Falls, Minnesota, Court of Federal Claims No: 19–1547V
28. India Washington on behalf of Z. K., Brooklyn, New York, Court of Federal Claims No: 19–1548V
29. Alyson Guerriero, Clark, New Jersey, Court of Federal Claims No: 19–1549V
30. Harris Feldman, Cherry Hill, New Jersey, Court of Federal Claims No: 19–1550V
31. Katherine A. Bray, Minneapolis, Minnesota, Court of Federal Claims No: 19–1551V
32. Beth Dames, East Aurora, New York, Court of Federal Claims No: 19–1552V
33. Zahra Leisi Zarnagh, Plymouth, Michigan, Court of Federal Claims No: 19–1554V
34. Andrew Scarlett and Tamara Dawes on behalf of Estate of Mia Johanna Scarlett, Deceased, Plantation, Florida, Court of Federal Claims No: 19–1555V
35. Sharyn Hall, Melbourne, Florida, Court of Federal Claims No: 19–1556V
36. Jeanee Stokes and Casey Stokes on behalf of O. S., Deceased, Hixson, Tennessee, Court of Federal Claims No: 19–1558V
37. Teresa Pride, Clinton, Tennessee, Court of Federal Claims No: 19–1560V
38. Angela Lloyd, Boston, Massachusetts, Court of Federal Claims No: 19–1562V
39. Mark A. Haynes, Louisville, Kentucky, Court of Federal Claims No: 19–1563V
40. Kimberly Brown, Murfreesboro, Tennessee, Court of Federal Claims No: 19–1564V
41. Angelia Keil, Brandon, Mississippi, Court of Federal Claims No: 19–1566V
42. Renee Orlandi, Harrisburg, Pennsylvania, Court of Federal Claims No: 19–1569V
43. Vanessa Morris, Little Rock, Arkansas, Court of Federal Claims No: 19–1570V
44. Gwenada Malcolm, Houston, Texas, Court of Federal Claims No: 19–1571V
45. Pamela Halbrook, Portland, Oregon, Court of Federal Claims No: 19–1572V
46. Travis Pavlicek on behalf of C. P., Bismarck, North Dakota, Court of Federal Claims No: 19–1573V
47. Joe Granado, Jr., San Jose, California, Court of Federal Claims No: 19–1574V
48. David Spielman, Chicago, Illinois, Court of Federal Claims No: 19–1575V
49. Adam Sulikowski, Burlington, Vermont, Court of Federal Claims No: 19–1577V
50. Michelle Barnett, Columbia, South Carolina, Court of Federal Claims No: 19–1578V
51. Dina Refior, Lexington, Nebraska, Court of Federal Claims No: 19–1579V
52. Hector Davila-Mayorga, Boscobel, Wisconsin, Court of Federal Claims No: 19–1581V
53. Pamela Brackley, Fayetteville, Virginia, Court of Federal Claims No: 19–1582V
54. Paige Martin, Watertown, Massachusetts, Court of Federal Claims No: 19–1584V
55. Carl Jordan, New York, New York, Court of Federal Claims No: 19–1586V
56. Sharon Rogalewski, West Seneca, New York, Court of Federal Claims No: 19–1587V
57. Jordan Hospedales, Parris Island, North Carolina, Court of Federal Claims No: 19–1588V
58. Curtis Scott Turley, Kaysville, Utah, Court of Federal Claims No: 19–1591V
59. Doris Mitchell, Huntersville, North Carolina, Court of Federal Claims No: 19–1593V
60. Heather Middelkoop, Schenectady, New York, Court of Federal Claims No: 19–1595V
61. Sue Ann Rockwell on behalf of L. J. B., New York, New York, Court of Federal Claims No: 19–1597V
62. Kristine Ballard, Tempe, Arizona, Court of Federal Claims No: 19–1600V
63. Silvia Stitt, Leechburg, Pennsylvania, Court of Federal Claims No: 19–1601V
64. David Buckley, Klamath Falls, Oregon, Court of Federal Claims No: 19–1602V
65. Anthony Sherwood, Santa Maria, California, Court of Federal Claims No: 19–1603V
66. Donna J. Moore, Marietta, Ohio, Court of Federal Claims No: 19–1604V
67. Stephen McGeorge, Marietta, Ohio, Court of Federal Claims No: 19–1605V
68. John Newsome, Macon, Georgia, Court of Federal Claims No: 19–1606V
69. Tamara Kundivich, Largo, Florida, Court of Federal Claims No: 19–1609V
70. Meagan Mulcahy, Bristol, Connecticut, Court of Federal Claims No: 19–1611V
71. Nathaniel Ian Brook, Richland, Texas, Court of Federal Claims No: 19–1612V
72. Melissa Heffley, Puyallup, Washington, Court of Federal Claims No: 19–1613V
73. Erica McNamara, Winter Park, Florida, Court of Federal Claims No: 19–1614V
74. Christa Cardenas, Brownsville, Texas, Court of Federal Claims No: 19–1617V
75. David Broniec, Chicago, Illinois, Court of Federal Claims No: 19–1618V
76. Kim B. Rhodes, Montgomery, Alabama, Court of Federal Claims No: 19–1619V
77. Wayne Venable, Lafayette, Louisiana, Court of Federal Claims No: 19–1620V
78. Gary Ward, Lafayette, Colorado, Court of Federal Claims No: 19–1621V
79. Donna R. Rands, Seattle, Washington, Court of Federal Claims No: 19–1622V
80. Timothy Wallace and Jennifer Wallace on behalf of T. W., Brooklyn, New York, Court of Federal Claims No: 19–1623V
81. Jennifer Johnson, Dallas, Texas, Court of Federal Claims No: 19–1625V
82. Armando Castaneda, Boscobel, Wisconsin, Court of Federal Claims No: 19–1627V
83. James Coward, Knoxville, Tennessee, Court of Federal Claims No: 19–1629V
84. Kaylee Nelson, Lexington, South Carolina, Court of Federal Claims No: 19–1630V
85. Lidia Vega, Santa Clara, California, Court of Federal Claims No: 19–1632V
86. Melissa Kirit, Moon Township, Pennsylvania, Court of Federal Claims No: 19–1633V
87. Tatum Brevig, Maple Grove, Minnesota, Court of Federal Claims No: 19–1635V
88. Debra Rose, Springboro, Ohio, Court of

Federal Claims No: 19–1639V
89. Denise Bengston, Wichita, Kansas, Court of Federal Claims No: 19–1643V
90. Shannon Cobb, Blue Springs, Missouri, Court of Federal Claims No: 19–1645V
91. Robert Labianco, Virginia Beach, Virginia, Court of Federal Claims No: 19–1646V
92. Tara Hunley, Madera, California, Court of Federal Claims No: 19–1647V
93. Jessica Sandner, Portland, Oregon, Court of Federal Claims No: 19–1648V
94. Teresa Buchanan, Chattanooga, Tennessee, Court of Federal Claims No: 19–1649V
95. Lisa C. Salzer, Salisbury, North Carolina, Court of Federal Claims No: 19–1650V
96. Robert R. Jodoin, Manchester, New Hampshire, Court of Federal Claims No: 19–1651V
97. Janice Byrd, Boston, Massachusetts, Court of Federal Claims No: 19–1655V
98. Janna Glassberg, Boston, Massachusetts, Court of Federal Claims No: 19–1656V
99. Charisse Guasto, Tomah, Wisconsin, Court of Federal Claims No: 19–1658V
100. Jordan Briggs, Richardson, Texas, Court of Federal Claims No: 19–1659V
101. Robert Mele, Washington, Pennsylvania, Court of Federal Claims No: 19–1660V
102. Kimberly Martin, Dallas, Texas, Court of Federal Claims No: 19–1661V
103. Richard Rebeles, Chicago, Illinois, Court of Federal Claims No: 19–1662V
104. Casey Wilson on behalf of C. W., Reno, Nevada, Court of Federal Claims No: 19–1663V
105. Kevin Carasiti, Wading River, New York, Court of Federal Claims No: 19–1664V
106. Jennifer Cortez, San Diego, California, Court of Federal Claims No: 19–1669V
107. Ashley Wirges, Washington, District of Columbia, Court of Federal Claims No: 19–1670V
108. Valerie K. Hester on behalf of The Estate of Marion Hester, Deceased, Durham, North Carolina, Court of Federal Claims No: 19–1671V
109. Susan Fitzgerald, Washington, District of Columbia, Court of Federal Claims No: 19–1673V
110. David Griswold, Mission Hills, California, Court of Federal Claims No: 19–1674V
111. George Girard Hammer, Jeffersontown, Kentucky, Court of Federal Claims No: 19–1675V
112. Gerald Lengkeek, Holland, Michigan, Court of Federal Claims No: 19–1678V
113. Traci Jones, Redlands, California, Court of Federal Claims No: 19–1680V
114. MaryGrace Fagen, Schererville, Indiana, Court of Federal Claims No: 19–1681V
115. Kim Reed, Winfield, Alabama, Court of Federal Claims No: 19–1682V
116. Hanna Reynolds, Davie, Florida, Court of Federal Claims No: 19–1683V
117. Frank Coluccio, Beverly Hills, California, Court of Federal Claims No: 19–1684V
118. Sharon Stephens, Victorville, California, Court of Federal Claims No: 19–1685V
119. Trevor Miller, Allentown, Pennsylvania, Court of Federal Claims No: 19–1686V
120. Lindsay Carlson, Modena, New York, Court of Federal Claims No: 19–1687V
121. Kristin Ivanovski, Hackensack, New Jersey, Court of Federal Claims No: 19–1690V
122. Emily Hirst, Gainesville, Georgia, Court of Federal Claims No: 19–1691V
123. Kristi Napier, New Albany, Indiana, Court of Federal Claims No: 19–1692V
124. Raven Tubbs, Dallas, Texas, Court of Federal Claims No: 19–1693V
125. Jennifer Kohlmeyer, Englewood, New Jersey, Court of Federal Claims No: 19–1694V
126. Kathy J. Stopar, Racine, Wisconsin, Court of Federal Claims No: 19–1695V
127. Nidal Zaidan, Dresher, Pennsylvania, Court of Federal Claims No: 19–1697V
128. Lindsay Ward, Dresher, Pennsylvania, Court of Federal Claims No: 19–1698V
129. Mir Hassan, Bloomingdale, Illinois, Court of Federal Claims No: 19–1699V

[FR Doc. 2019–25099 Filed 11–19–19; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; HIV/AIDS Clinical Trials Networks Statistical and Data Management Centers (UM1 Clinical Trial Required).

*Date:* December 12–13, 2019.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Cambria Hotel Rockville, 1 Helen Heneghan Way, Rockville, MD 20850.

*Contact Person:* Cynthia Louise De La Fuente, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health, NIAID, 5601 Fishers Lane, MSC–9823, Rockville, MD 20852, 240–669–2740, *delafuentecl@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 14, 2019.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2019–25116 Filed 11–19–19; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID SBIR Phase II Clinical Trial Implementation Cooperative Agreement (U44 Clinical Trial Required).

*Date:* December 16, 2019.

*Time:* 9:00 a.m. to 11:00 a.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

*Contact Person:* Kelly Lorraine Hudspeth, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health, NIAID, 5601 Fishers Lane, MSC–9823 Rockville, MD 20852, 240–669–5067, *kelly.hudspeth@nih.gov*.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Collaborative Cross Mouse Model Generation and Discovery of Immunoregulatory Mechanisms (R21).

*Date:* January 8–9, 2020.

*Time:* 9:00 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

*Contact Person:* Margaret Allison Morris Fears, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health, NIAID, 5601 Fishers Lane, MSC–9823, Rockville, MD 20852, *maggie.morrisfears@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 14, 2019.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2019–25115 Filed 11–19–19; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; HIV/AIDS Adult Therapeutics Clinical Trials Network Leadership and Operations Center (UM1 Clinical Trial Required).

*Date:* December 6, 2019.

*Time:* 11:00 a.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

*Contact Person:* J. Bruce Sundstrom, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 5601 Fishers Lane, Room 3G11A, MSC 9823, Bethesda, MD 20892–9823, 240–669–5045, *sundstromj@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 14, 2019.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2019–25112 Filed 11–19–19; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Proposed Collection; 60-Day Comment Request; National Institute of Neurological Disorders and Stroke FITBIR Data Access Request

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirement of the Paperwork Reduction Act of 1995, to provide opportunity for public comment on proposed data collection projects, the National Institute of Neurological Disorders and Stroke (NINDS), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

**DATES:** Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

**FOR FURTHER INFORMATION CONTACT:** To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Dr. Sophia Jeon, Health Science Policy Analyst, Office of Science Policy and Planning, OSPP, NINDS, NIH, 31 Center Drive, Building 31, Room 8A03, Bethesda, MD 20892, or call non-toll-free number (301) 435–7571, or Email your request, including your address to: *sophia.jeon@nih.gov* Formal requests for additional plans and instruments must be requested in writing.

**SUPPLEMENTARY INFORMATION:** Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

*Proposed Collection Title:* National Institute of Neurological Disorders and Stroke FITBIR Data Access Request, 0925–0677, REINSTATEMENT with change–, Expiration Date 12/31/2019 National Institute of Neurological Disorders and Stroke (NINDS), National Institutes of Health (NIH).

*Need and Use of Information Collection:* The FITBIR Informatics System Data Access Request form is necessary for Principal Investigators (PIs) and their organization or corporations with approved assurance from the DHHS Office of Human Research Protections to access data or images from the FITBIR Informatics System for research purposes. The primary use of this information is to document, track, monitor, and evaluate the use of the FITBIR datasets, as well as to notify interested recipients of updates, corrections or other changes to the database. For reinstatement of this collection, the agency proposes to add Data Submission Request to allow ''Submitter'' Principal Investigators (PIs) to request submission of their data to the FITBIR database for broad data sharing and to document, monitor, and track the FITBIR data submissions. Types of respondents affected by this information collection are researchers, such as ''Recipient'' PIs who are interested in obtaining access to study data and images from the FITBIR Informatics System for research purposes, or ''Submitter'' PIs who are interested in submitting data to contribute to the FITBIR database for their data to be shared with the traumatic brain injury research community.

OMB approval reinstatement is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 96.

ESTIMATED ANNUALIZED BURDEN HOURS

| Form name | Type of respondents | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total annual burden hours |
|---|---|---|---|---|---|
| FITBIR Data Access Request .. | Individuals (“Recipient” Principal Investigators). | 85 | 1 | 60/60 | 85 |
| FITBIR Data Submission Request. | Individuals (“Submitter” Principal Investigators). | 65 | 1 | 10/60 | 11 |
| Total ..... | ..... | ..... | 150 | ..... | 96 |

Dated: November 14, 2019.

**Paul Scott,**

*Project Clearance Liaison, National Institute of Neurological Disorders and Stroke, NIH.*

[FR Doc. 2019–25114 Filed 11–19–19; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, November 22, 2019, 11:00 a.m. to 5:00 p.m., at the Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on October 30, 2019, 84 FR 58161.

The meeting format of the Special Emphasis Panel RFA Panel: Tobacco Regulatory Science B, has been changed to a Virtual Assisted Meeting. The meeting date, time and location remain the same. The meeting is closed to the public.

Dated: November 15, 2019.

**Ronald J. Livingston, Jr.,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2019–25181 Filed 11–19–19; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[Docket No. USCG–2019–0878]**

### Notice of Public Meeting on Consistent Implementation of Regulation 14.1.3 of MARPOL Annex VI (Global 0.50% Sulfur Limit)

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of meeting.

**SUMMARY:** The United States Coast Guard will conduct a public meeting in Washington, DC on consistent implementation of regulation 14.1.3 of MARPOL Annex IV (Global 0.50% Sulfur Limit). The purpose of this meeting will be to review the MARPOL Annex VI provisions for implementing the Global 0.50% Sulfur Limit and the associated guidance developed through the International Maritime Organization, as well as discuss related issues and Coast Guard enforcement plans.

**DATES:** This public meeting will be held on Thursday, December 5, beginning at 9:30 a.m. and ending at 3:00 p.m., Eastern Time. This meeting is open to the public.

**ADDRESSES:** The public meeting will be held in Room 3, located on the first floor near the main entrance of the United States Department of Transportation building in Washington, DC. The United States Department of Transportation building is located at 1200 New Jersey Ave. SE, in Washington, DC, across the street from the Navy Yard-Ballpark Metro Station. Due to security requirements, each visitor must present a valid government-issued photo identification (for example, a driver’s license) in order to gain entrance to the building. Those desiring to attend the public meeting should contact the Coast Guard ahead of the meeting (see **FOR FURTHER INFORMATION CONTACT**) to facilitate the security process related to building access, or to request reasonable accommodation.

**FOR FURTHER INFORMATION CONTACT:** For additional information about this public meeting you may contact Mr. Wayne Lundy by telephone at (202) 372–1379 or by email at *Wayne.M.Lundy@uscg.mil.*

**SUPPLEMENTARY INFORMATION:** Annex VI to the International Convention for the Prevention of Pollution from Ships (MARPOL Annex VI) addresses air pollution from ships. Regulation 14 addresses particulate matter (PM) and sulfur oxide ($SO_X$) emissions through fuel sulfur content limits. Beginning on January 1, 2015, fuel used in ships operating in designated Emission Control Areas (ECAs), including the North American and U.S. Caribbean Sea ECAs, may not exceed 1,000 ppm. Outside of designated ECAs, the sulfur content of marine fuel currently may not exceed 35,000 ppm; this limit will be reduced to 5,000 ppm beginning on January 1, 2020.

As required by Regulation 14.8 of Annex VI, the 2020 global sulfur limit was reviewed and the limit was confirmed by the Marine Environment Protection Committee at its 70th session in November, 2016. At the 71st session, the Marine Environment Protection Committee agreed on a new work output to consider measures to promote consistent implementation of the global sulfur limit to address industry concerns and promote a level playing field with regard to compliance and enforcement of the new standards.

The Coast Guard will conduct a meeting on Thursday, December 5 at the United States Department of Transportation building in Washington, DC, provide an overview of the MARPOL Annex VI provisions for implementing the Global 0.50% Sulfur Limit and the associated guidance developed through the International Maritime Organization. Related issues will also be discussed, including enforcement in the United States, changes to Port State Control procedures, fuel oil non-availability notices, Ship Implementation Plans, in-use and onboard fuel oil sampling, and Exhaust Gas Cleaning Systems.

This meeting is open to the public. Please note that the public meeting has a limited number of seats. Also, the meeting may close early if all business is finished. Those interested in attending should contact Mr. Wayne Lundy by telephone at (202) 372–1379 or by email at *Wayne.M.Lundy@uscg.mil.*

**Information on Services for Individuals With Disabilities**

For information on facilities or services for individuals with disabilities or to request special assistance at the

meeting, contact Mr. Wayne Lundy at (202) 372–1379 or by email at *Wayne.M.Lundy@uscg.mil* as soon as possible.

Dated: November 14, 2019.

**J.G. Lantz,**

*Director of Commercial Regulations and Standards, U.S. Coast Guard.*

[FR Doc. 2019–25144 Filed 11–19–19; 8:45 am]

BILLING CODE P

## DEPARTMENT OF HOMELAND SECURITY

## Agreement Between the Government of the United States of America and the Government of the Republic of Guatemala on Cooperation Regarding the Examination of Protection Claims

**AGENCY:** Office of Strategy, Policy, and Plans, Department of Homeland Security.

**ACTION:** Notice of agreement.

**SUMMARY:** The Department of Homeland Security is publishing the Agreement between the Government of the United States of America and the Government of the Republic of Guatemala on Cooperation Regarding the Examination of Protection Claims.

The text of the Agreement is set out below.

**Valerie Boyd,**

*Assistant Secretary for International Affairs, Office of Strategy, Policy, and Plans, U.S. Department of Homeland Security.*

BILLING CODE 9110–9M–P

**AGREEMENT**
**BETWEEN**
**THE GOVERNMENT OF THE UNITED STATES OF AMERICA**
**AND**
**THE GOVERNMENT OF THE REPUBLIC OF GUATEMALA**
**ON COOPERATION REGARDING THE EXAMINATION OF PROTECTION CLAIMS**

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF GUATEMALA, hereinafter referred to individually as "Party" or collectively "the Parties".

CONSIDERING that Guatemala regulates its relations with other countries in accordance with international principles, rules and practices, with the purpose of contributing to the maintenance of peace and freedom, the respect and defense of human rights, and the strengthening of democratic processes and international institutions that guarantee the mutual and equitable benefit among the states. On the other hand, Guatemala will maintain relations of friendship, solidarity and cooperation with those states whose economic, social and cultural development is analogous to that of Guatemala, such as the right of people to migrate and their need for protection.

WHEREAS Guatemala currently incorporates a dynamic immigration law into its domestic legislation, which requires Guatemala to recognize the right of every person to emigrate or immigrate, thereby allowing any migrant to enter, remain, transit, leave and return to its territory in accordance with its domestic laws. Likewise, in situations not provided for by domestic legislation, the norm that most favors the migrant must be applied. As such, temporary shelter and care should be given to those who wish to enter Guatemala legally. For the above reasons it is necessary to promote cooperation agreements with other states that uphold the same values outlined in Guatemala's migration policy, which is regulated by the National Migration Authority.

CONSIDERING that Guatemala is a party to the 1951 Convention relating to the Status of Refugees, done at Geneva on July 28, 1951 (the "1951 Convention") and the Protocol Relating to the Status of Refugees, done at New York on January 31, 1967 (the "1967 Protocol"), to which the United States of America is a party and reaffirming the obligation of the Parties to provide protection to refugees who meet the requirements and who are physically in their respective territories, in accordance with their obligations under those instruments and subject to the respective laws, treaties, and declarations of the Parties.

RECOGNIZING, in particular, the obligation of the Parties to comply with the principle of non-refoulement, as outlined in the 1951 Convention and the 1967 Protocol, as well as the Convention against Torture and Other Treatment or Cruel, Inhuman or Degrading Penalties, signed in New York on December 10, 1984 (the "Convention against Torture"), subject to the Parties respective reservations, understandings, and declarations and reaffirming their respective obligations to promote and protect human rights and fundamental freedoms consistent with their international obligations;

RECOGNIZING and respecting the obligations of each Party in accordance with its domestic laws

and policies, and international agreements and arrangements;

UNDERSCORING that the United States and Guatemala offer refugee protection systems that are consistent with their obligations under the 1951 Convention and/or the 1967 Protocols;

DETERMINED to maintain the status of refuge or equivalent temporary protection, as an essential measure of the protection of refugees or asylees, and at the same time wishing to prevent fraud in the refugee or asylum application process –an action that undermines its legitimate purpose– and determined to strengthen the integrity of the official process for requesting asylum or refugee status as well as public support for said processes;

AWARE that the distribution of responsibility for requests for protection must guarantee in practice, that people in need of protection be identified and that violations of the basic principle of non-refoulement be avoided; and, therefore, committed to safeguarding for each applicant the status of refuge or asylum that meets the required conditions, access to a full and fair procedure for the determination of their claim;

AGREE to the following:

**ARTICLE 1**

For the purposes of this Agreement:

1. "Request for Protection" refers to the request of a person of any nationality, to the government of one of the Parties to receive protection in accordance with their respective institutional obligations derived from the 1951 Convention, the 1967 Protocol or the Convention against Torture, and in accordance with the respective laws and policies of the Parties, enforcing compliance with said international obligations; as well as to receive any other type of equivalent temporary protection available under the migration law of the receiving party.

2. "Protection Applicant" refers to any person who submits a request for protection in the territory of one of the Parties.

3. "System to Determine Protection" refers to the set of policies, laws, administrative and judicial practices that the Government of each Party uses to make a decision on requests for protection.

4. "Unaccompanied Minor" refers to an applicant for protection who has not reached the age of eighteen (18) and whose parent or legal guardian is not present or available to provide care and physical custody in the United States, or in Guatemala, where the unaccompanied minor is located.

5. In the case of Guatemala immigration, law and migration policy refers to the rights of persons to enter, remain, transit and leave its territory in accordance with its domestic laws

and international agreements and arrangements, and immigration stay means the authorized period of time according to the immigration status granted to individuals.

**ARTICLE 2**

This Agreement does not apply to applicants for protection who are citizens or nationals of Guatemala; or stateless individuals habitually residing in Guatemala.

**ARTICLE 3**

1. To ensure that protection applicants transferred to Guatemala by the United States have access to a system to determine protection, Guatemala will not return or expel applicants for protection in Guatemala, unless the application is abandoned by the applicant or is formally rejected through an administrative decision.

2. During the transfer process, the persons subject to this Agreement will be the responsibility of the United States until the transfer process is completed.

**ARTICLE 4**

1. The responsibility for determining and concluding requests for protection within its territory shall rest with the United States, when the United States establishes that that person:

   a. is an unaccompanied minor; or

   b. has arrived in the territory of the United States:

      i. with a validly-issued visa or other valid admission document, other than a transit visa, issued by the United States; or

      ii. without the United States requiring him to obtain a visa.

2. Notwithstanding paragraph 1 of this article, Guatemala will evaluate the request for protection on an individual basis, in accordance with what is established and authorized by the competent authority on immigration matters in its migration policies and laws and in its territory, of persons who meet the appropriate requirements under this Agreement and who arrive in the United States at a port of entry or between ports of entry, on or after the effective date of this Agreement. Guatemala will evaluate the request for protection, in keeping with the Initial Implementation Plan and the standard operating procedures referenced in Article 7.1 and 7.5.

3. The Parties shall apply this Agreement with respect to unaccompanied minors, in accordance with their respective domestic laws.

4. The Parties shall have procedures in place to ensure that the transfers from the United States to Guatemala of the persons covered by this Agreement are compatible with their respective obligations, domestic and international laws, and migration policies.]

5. The United States shall make the final decision that an individual qualifies for an exception under Articles 4 and 5 of this Agreement.

**ARTICLE 5**

Notwithstanding any provision of this Agreement, any Party may, at its discretion, examine any request for protection that has been submitted to that Party when it decides that it is in the public interest to do so.

**ARTICLE 6**

The Parties may:

1. Exchange information when necessary for the effective implementation of this Agreement, subject to national laws and regulations. Such information will not be disclosed by the recipient country except in accordance with its national laws and regulations.

2. The Parties may regularly exchange information regarding laws, regulations, and practices related to their respective systems to determine migration protection.

**ARTICLE 7**

1. The Parties shall develop standard operating procedures to assist in the implementation of this Agreement. These procedures shall incorporate provisions to notify Guatemala in advance of the transfer of any person pursuant to this Agreement. The United States will collaborate with Guatemala to identify the appropriate individuals to be transferred to Guatemala's territory.

2. The operating procedures shall incorporate mechanisms to resolve disputes that respect the interpretation and implementation of the terms of this Agreement. Unforeseen cases that cannot be resolved through these mechanisms will be resolved through diplomatic channels.

3. The United States plans to cooperate to strengthen the institutional capacities of Guatemala.

4. The Parties agree to regularly evaluate this Agreement and its implementation to correct any deficiencies found. The evaluations will be carried out jointly by the Parties, the first within a maximum period of three (3) months from the date of entry into operation of the Agreement with following evaluations occurring by the same terms. The Parties may invite, by mutual agreement, other relevant organizations with specialized knowledge on the subject, to participate in the initial evaluation and/or cooperate for the implementation of this Agreement.

5. The Parties intend to complete an initial implementation plan, which will contain gradual steps, and address, among other things: (a) procedures necessary to effectuate the transfer of individuals under this agreement; (b) the volume or number of individuals to be transferred; and (c) institutional capacity requirements. The Parties plan to operationalize this Agreement upon the completion of a phased implementation plan.

**ARTICLE 8**

1. This Agreement shall enter into force by means of an exchange of notes between the Parties indicating that each party has complied with the necessary domestic legal procedures for the Agreement to enter into force. For the term of two (2) years, renewable before its expiration with the exchange of diplomatic notes.

2. Any Party may terminate this Agreement by giving written notice to the other Party three (3) months in advance.

3. Any Party may, immediately after notifying the other Party in writing, suspend for an initial period of up to three (3) months the implementation of this Agreement. This suspension may be extended for additional periods of up to three (3) months, by means of written notification to the other Party. Any Party may, with the written consent of the other, suspend any part of this Agreement.

4. The Parties may in writing, by mutual agreement, make any modification or addition to this Agreement. These shall enter into force in accordance with the relevant legal procedures of each Party and the amendment or addition shall constitute an integral part of this Agreement.

5. Nothing in this Agreement shall be construed in such a way as to oblige the Parties to disburse or obligate funds.

IN FAITH WHEREOF, the undersigned, duly authorized by their respective governments, sign this Agreement.

SIGNED on the 26 day of July of the year 2019 in the English and Spanish languages, with both texts being authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:
Kevin K. McAleenan
Acting Secretary of Homeland Security

FOR THE GOVERNMENT OF THE REPUBLIC OF GUATEMALA:
Enrique A. Degenhart Asturias
Minister of Government

[FR Doc. 2019–25288 Filed 11–18–19; 4:15 pm]
BILLING CODE 9110–9M–C

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[Docket No. FWS–HQ–IA–2019–0102; FXIA16710900000–201–FF09A30000]**

### Foreign Endangered Species; Wild Bird Conservation Act; Receipt of 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, invite the public to comment on applications to conduct certain activities with foreign species that are listed as endangered under the Endangered Species Act (ESA). With some exceptions, the ESA prohibits activities with listed species unless Federal authorization is issued that allows such activities. The ESA also requires that we invite public comment before issuing permits for any activity otherwise prohibited by the ESA with respect to any endangered species. We also invite comment on an application for approval to conduct certain activities with a foreign bird species covered under the Wild Bird Conservation Act.

**DATES:** We must receive comments by December 20, 2019.

**ADDRESSES:**

*Obtaining Documents:* The applications, application supporting materials, and any comments and other materials that we receive will be available for public inspection at *http://www.regulations.gov* in Docket No. FWS–HQ–IA–2019–0102.

*Submitting Comments:* When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. You may submit comments by one of the following methods:

- *Internet: http://www.regulations.gov.* Search for and submit comments on Docket No. FWS–HQ–IA–2019–0102.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2019–0102; U.S. Fish and

Wildlife Service Headquarters, MS: PERMA; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

For more information, see Public Comment Procedures under **SUPPLEMENTARY INFORMATION.**

**FOR FURTHER INFORMATION CONTACT:** Tim MacDonald, by phone at 703–358–2104, via email at *DMAFR@fws.gov,* or via the Federal Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

## I. Public Comment Procedures

*A. How do I comment on submitted applications?*

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.

You may submit your comments and materials by one of the methods in **ADDRESSES**. We will not consider comments sent by email or fax, or to an address not in **ADDRESSES**. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**).

When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. Provide sufficient information to allow us to authenticate any scientific or commercial data you include. The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) those that include citations to, and analyses of, the applicable laws and regulations.

*B. May I review comments submitted by others?*

You may view and comment on others' public comments at *http://www.regulations.gov,* unless our allowing so would violate the Privacy Act (5 U.S.C. 552a) or Freedom of Information Act (5 U.S.C. 552).

*C. Who will see my comments?*

If you submit a comment at *http://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, such as your address, phone number, or email address, 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. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

## II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(c) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), we invite public comments on permit applications before final action is taken. With some exceptions, the ESA prohibits certain activities with listed species unless Federal authorization is issued that allows such activities. Permits issued under section 10(a)(1)(A) of the ESA allow otherwise prohibited activities for scientific purposes or to enhance the propagation or survival of the affected species. Service regulations regarding prohibited activities with endangered species, captive-bred wildlife registrations, and permits for any activity otherwise prohibited by the ESA with respect to any endangered species are available in title 50 of the Code of Federal Regulations in part 17.

## III. Permit Applications

We invite comments on the following applications.

*A. Endangered Species*

*Applicant:* Texas Tech University, Lubbock, TX; Permit No. 219951

The applicant requests the reissuance of a permit to import unlimited numbers of biological specimens from crocodiles, alligators, caimans, and gavials (Order Crocodylia) for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

*Applicant:* Gulf Breeze Zoo, Gulf Breeze, FL; Permit No. 35106D

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species, to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

| Common name | Scientific name |
|---|---|
| Ring-tailed lemur | *Lemur catta.* |
| Black and white ruffed lemur. | *Varecia variegata.* |
| Cottontop tamarin | *Saguinus oedipus.* |
| White-handed (Lar) gibbon. | *Hylobates lar.* |
| Siamang | *Symphalangus syndactylus.* |
| Arabian oryx | *Oryx leucoryx.* |
| Galapagos tortoise | *Chelonoidis nigra.* |
| Radiated tortoise | *Astrochelys radiata.* |
| Western lowland gorilla. | *Gorilla gorilla.* |
| Orangutan | *Pongo pygmaeus.* |
| Tiger | *Panthera tigris.* |
| African lion | *Panthera leo.* |
| Clouded leopard | *Neofelis nebulosa.* |

*B. Wild Bird Conservation*

The public is invited to comment on the following application for approval to conduct certain activities with a bird species covered under the Wild Bird Conservation Act of 1992 (16 U.S.C. 4901–4916). This notice is provided pursuant to section 112(4) of the Wild Bird Conservation Act of 1992 (50 CFR15.26(c)).

*Applicant:* Paul Marolf, Miami, FL; Permit No. 34725D

The applicant wishes to establish a cooperative breeding program for grey parrot (*Psittacus erithacus*), importing into the United States 4,000 grey parrots currently held in facilities in South Africa. The applicant wishes to be an active participant in this program along with Jason Mitchell and Ray O'Neill, both of South Africa. If approved, the program will be overseen by the Organization of Professional Aviculturists, San Dimas, California.

## IV. Next Steps

After the comment period closes, we will make decisions regarding permit issuance. If we issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the notice announcing the permit issuance by searching *http://www.regulations.gov* for the permit number listed above in this document. For example, to find information about the potential issuance of Permit No. 12345A, you would go to *regulations.gov* and search for ''12345A''.

## V. Authority

We issue this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and its implementing regulations, and section 112(4) of the Wild Bird Conservation Act of 1992 (50 CFR 15.26(c)).

**Tim MacDonald,**

*Government Information Specialist, Branch of Permits, Division of Management Authority.*

[FR Doc. 2019–25156 Filed 11–19–19; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[Docket No. FWS–HQ–IA–2019–0093; FXIA16710900000–201–FF09A30000]**

## Foreign Endangered Species; Marine Mammals; Receipt of 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 (Service), invite the public to comment on applications to conduct certain activities with foreign species that are listed as endangered under the Endangered Species Act (ESA) and foreign or native species for which the Service has jurisdiction under the Marine Mammal Protection Act (MMPA). With some exceptions, the ESA and the MMPA prohibit activities with listed species unless Federal authorization is issued that allows such activities. The ESA and MMPA also require that we invite public comment before issuing permits for any activity otherwise prohibited by the ESA or MMPA with respect to any endangered species or marine mammals.

**DATES:** We must receive comments by December 20, 2019.

**ADDRESSES:**

*Obtaining Documents:* The applications, application supporting materials, and any comments and other materials that we receive will be available for public inspection at *http://www.regulations.gov* in Docket No. FWS–HQ–IA–2019–0093.

*Submitting Comments:* When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. You may submit comments by one of the following methods:

- *Internet: http://www.regulations.gov.* Search for and submit comments on Docket No. FWS–HQ–IA–2019–0093.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2019–0093; U.S. Fish and Wildlife Service Headquarters, MS: PERMA; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

For more information, see Public Comment Procedures under **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Monica Thomas, by phone at 703–358–2104, via email at *DMAFR@fws.gov,* or via the Federal Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

### I. Public Comment Procedures

*A. How do I comment on submitted applications?*

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.

You may submit your comments and materials by one of the methods in **ADDRESSES**. We will not consider comments sent by email or fax, or to an address not in **ADDRESSES**. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**).

When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. Provide sufficient information to allow us to authenticate any scientific or commercial data you include. The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) those that include citations to, and analyses of, the applicable laws and regulations.

*B. May I review comments submitted by others?*

You may view and comment on others' public comments at *http://www.regulations.gov,* unless our allowing so would violate the Privacy Act (5 U.S.C. 552a) or Freedom of Information Act (5 U.S.C. 552).

*C. Who will see my comments?*

If you submit a comment at *http://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, such as your address, phone number, or email address, 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. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

### II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(c) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and section 104(c) of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), we invite public comments on permit applications before final action is taken. With some exceptions, the ESA and MMPA prohibit certain activities with listed species unless Federal authorization is issued that allows such activities. Permits issued under section 10(a)(1)(A) of the ESA allow otherwise prohibited activities for scientific purposes or to enhance the propagation or survival of the affected species. Service regulations regarding prohibited activities with endangered species, captive-bred wildlife registrations, and permits for any activity otherwise prohibited by the ESA with respect to any endangered species are available in title 50 of the Code of Federal Regulations in part 17. Service regulations regarding permits for any activity otherwise prohibited by the MMPA with respect to any marine mammals are available in title 50 of the Code of Federal Regulations in part 18. Concurrent with publishing this notice in the **Federal Register**, we are forwarding copies of the marine mammal applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

### III. Permit Applications

We invite comments on the following applications.

*A. Endangered Species*

Applicant: University of Washington, Seattle, WA; Permit No. 40810D

The applicant requests authorization to import biological samples of wild and captive ground pangolin (*Manis temminckii*) from multiple countries for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Hidden Harbor Marine Environmental Project, Inc. dba The Turtle Hospital, Marathon, FL; Permit No. 47936D

The applicant requests authorization to export one female loggerhead sea turtle (*Caretta caretta*) from The Turtle Hospital, Marathon, FL to Sea Life London Aquarium, London, U.K., for the purpose of enhancing the

propagation or survival of the species. This notification is for a single export.

Applicant: Royal Botanic Gardens, Kew, c/o Caribbean Ecological Service Field Office, Boqueron, PR; Permit No. 51216D

The applicant requests authorization to export dried and/or preserved plant samples of (*Cordia bellonis*) for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Stevens Forest, Sanderson, TX; Permit No. 36949D

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for barasingha (*Rucervus duvaucelii*) to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Joan Hemker, Hemker Park and Zoo, Freeport, MN; Permit No. 21468B

The applicant requests an amendment of an existing captive-bred wildlife registration under 50 CFR 17.21(g) for jackass penguin (*Spheniscus demersus*), ring-tailed lemur (*Lemur catta*), cotton-top tamarin (*Saguinus oedipus*), red ruffed lemur (*Varecia rubra*), and black-and-white ruffed lemur (*Varecia variegata*) to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Forest Stevens, Sanderson, TX; Permit No. 46450D

The applicant requests a permit authorizing the culling of excess barasingha (*Rucervus duvaucelii*) from the captive herd maintained at their facility, to enhance the species' propagation and survival. This notification covers activities to be conducted by the applicant over a 5-year period.

The following applicants request permits to import sport-hunted trophies of male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancing the propagation or survival of the species.

Applicant: Tanner Glidden, Klamath Falls, OR; Permit No. 51278D

Applicant: Phillip Landry, Leesvile, CA; Permit No. 76127C

*B. Endangered Marine Mammals and Marine Mammals*

Applicant: Alaska SeaLife Center, Seward, AK; Permit No. 11219B

The applicant requests renewal of their permit for public display of Pacific walrus (*Odobenus rosmarus*) that were rescued from the wild and designated non-releasable due to their inability to survive in the wild. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: U.S. Geological Survey, Anchorage, AK; Permit No. 33776D

The applicant requests a permit to collect biological samples from and conduct aerial surveys using Unmanned Aerial Systems of wild-caught Pacific walrus (*Odobenus rosmarus*) from all age classes and sexes for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: University of California-Davis, Davis, CA; Permit No. 98121C

The applicant requests a permit to import biological samples from wild-caught Pacific walrus (*Odobenus rosmarus*) from Fisheries and Oceans Canada for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Stanford University Medical Center, Stanford, CA; Permit No. 02713D

The applicant requests a permit to import biological samples from two male and two female, wild-caught polar bear (*Ursus maritimus*) from the University of Alberta, Edmonton, Canada for the purpose of scientific research.

**IV. Next Steps**

After the comment period closes, we will make decisions regarding permit issuance. If we issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the notice announcing the permit issuance by searching *http://www.regulations.gov* for the permit number listed above in this document. For example, to find information about the potential issuance of Permit No. 12345A, you would go to *regulations.gov* and search for ''12345A''.

**V. Authority**

We issue this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and its implementing regulations, and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and its implementing regulations.

**Brenda Tapia,**

*Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.*

[FR Doc. 2019–25082 Filed 11–19–19; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLNVS01000 L58530000 ER0000; N–96474; MO# 4500132059]**

### Notice of Realty Action: Classification for Lease and/or Conveyance for Recreation and Public Purposes of Public Lands (N–96474) for an Elementary School in the Southwest Portion of the Las Vegas Valley, Clark County, NV

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of realty action.

**SUMMARY:** The Bureau of Land Management (BLM), Las Vegas Field Office has examined and found suitable for classification for lease and conveyance 10 acres of public land in Clark County, Nevada, under the provisions of the Recreation and Public Purposes Act (R&PPA), as amended; Sec. 7 of the Taylor Grazing Act; and Executive Order No. 6910. The Clark County School District proposes to use the land to build an elementary school to meet the future needs of the local community.

**DATES:** Submit written comments regarding this proposed classification (serialized N–96474) on or before January 6, 2020. Comments may be mailed or hand delivered to the BLM office address below, or faxed to 702–515–5010. The BLM will not consider comments received via telephone calls or email.

**ADDRESSES:** Mail written comments to the BLM Las Vegas Field Office, Field Manager, Division of Lands, 4701 N Torrey Pines Drive, Las Vegas, Nevada 89130. Information including but not limited to a development and management plan and documentation relating to compliance with applicable environmental and cultural resource laws, is available for review during business hours, 8:00 a.m. to 4:30 p.m.

Pacific Time, Monday through Friday, except during Federal holidays, at the BLM Las Vegas Field Office, 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130.

**FOR FURTHER INFORMATION CONTACT:** Sheryl May, Realty Specialist by telephone at: 702–515–5196; or email at: *smay@blm.gov.* Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to leave a message or question for the above individual. The FRS is available 24 hours a day, 7 days a week. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The lease parcel is located along portions of Teepee Lane, Pattini Avenue, and Park Street in the southwest portion of the Las Vegas Valley and is described as:

**Mount Diablo Meridian, Nevada**

T. 22 S, R. 60 E,
Sec. 19, S½SE¼NW¼SE¼ and N½NE¼SW¼SE¼.

The area described contains 10 acres in Clark County, Nevada.

The Clark County School District filed an application to develop an elementary school with approximately 46 classrooms. Kindergarten students and classrooms will be placed in a separate portion of the school with its own fenced entrance and a separate primary playground. The 1st through 5th grade classrooms will include but not be limited to science rooms, music and art rooms, special education classrooms, and cafeteria. The school will also have turf and asphalt play areas, intermediate playground, basketball courts, bike racks, shaded rest areas, tetherball courts, softball field, and a botanical learning area. Additionally, there will be parking for the public, school staff, and school buses to pick up and drop students off, as well as an emergency access road. Offsite improvements will be developed as required by governing agencies.

The lands are not required for any Federal purposes, and are mostly surrounded by private lands. The lands do not provide access routes to Federal or state lands that contain outdoor recreational opportunities. Lease or conveyance of the lands for recreational or public purposes use is consistent with the BLM Las Vegas Resource Management Plan dated October 5, 1998, and would be in the public interest.

The Clark County School District has not applied for more than the 6,400-acre limitation for recreation uses in a year, nor more than 640 acres for each of the programs involving public resources other than recreation.

All interested parties will receive a copy of this Notice once it is published in the **Federal Register**. A copy of the Notice with information about this realty action will publish in the newspaper of local circulation once a week for three consecutive weeks. The regulations at 43 CFR 2741 addressing requirements and procedures for conveyances under the R&PPA do not require a public meeting.

Upon publication of the Notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under public lands laws, except for the lease or conveyance under the R&PP Act and leasing under the mineral leasing laws. The segregation effect shall terminate upon issuance of the lease, upon final rejection of the application, or 18 months from the date of this notice, whichever occurs first.

The lease or conveyance of the land, when issued, will be subject to the following terms, conditions, and reservations:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. Provisions of the R&PP Act and to all applicable regulations of the Secretary of the Interior.

3. All mineral deposits in the land so patented, and the right to prospect for, mine, and remove such deposits from the same under applicable law and regulations as established by the Secretary of the Interior are reserved to the United States, together with all necessary access and exit rights.

4. Lease or conveyance of the parcel is subject to valid existing rights.

5. An appropriate indemnification clause protecting the United States from claims arising out of the lessees/patentee's use, occupancy, or occupations on the leased/patented lands.

6. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

7. A right-of-way grant (N–96250) to Clark County Public Works for a roadway and drainage facilities.

Any lease and conveyance will also contain any terms or conditions required by law (including, but not limited to, any terms or conditions required by 43 CFR 2741.4), and will contain an appropriate indemnification clause protecting the United States from claims arising out of the lessee's/patentee's use, occupancy, or operations on the leased/patented lands. It will also contain any other terms and conditions deemed necessary and appropriate by the Authorized Officer.

Interested persons may submit comments involving the suitability of the land for development of an elementary school and facilities. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with state and Federal programs.

Interested parties may submit comments regarding the specific use proposed in the application and plan of development and management and whether the BLM followed proper administrative procedures in reaching the decision to lease or convey under the R&PPA.

Before including your address, phone number, email address, or other personal identifying information in any comment, 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.

Only written comments submitted to the Field Manager, BLM Las Vegas Field Office will be considered properly filed. Any adverse comments will be reviewed by the BLM Nevada State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action.

In the absence of any adverse comments, the decision will become effective on January 21, 2020. The lands will not be available for lease and conveyance until after the decision becomes effective.

**Authority:** 43 CFR 2741.5.

**Shonna Dooman,**
*Field Manager, Las Vegas Field Office.*

[FR Doc. 2019–25178 Filed 11–19–19; 8:45 am]
**BILLING CODE 4310–HC–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[X.LLAZ921000.L14400000.BJ0000. LXSSA2250000.241A]**

### Notice of Filing of Plat of Survey; Arizona

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of official filing.

**SUMMARY:** The plat of survey of the following described land is scheduled to be officially filed 30 days after the date of this publication in the Bureau of Land Management (BLM), Arizona State Office, Phoenix, Arizona. The survey announced in this notice is necessary for the management of lands administered by the agency indicated.

**ADDRESSES:** This plat will be available for inspection in the Arizona State Office, Bureau of Land Management, One North Central Avenue, Suite 800, Phoenix, Arizona 85004–4427. Protests of the survey should be sent to the Arizona State Director at the above address.

**FOR FURTHER INFORMATION CONTACT:** Geoffrey Graham, Chief Cadastral Surveyor of Arizona; (602) 417–9558; *ggraham@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:**

**The Gila and Salt River Meridian, Arizona**

The plat, in two sheets, representing the survey of Tracts 38 and 39, in sections 7 and 18, Township 39 North, Range 7 East, accepted November 5, 2019, for Group 1196, Arizona.

This plat was prepared at the request of the Bureau of Land Management.

A person or party who wishes to protest against any of these surveys must file a written notice of protest within 30 calendar days from the date of this publication with the Arizona State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within 30 days after the protest is filed. Before including your address, or other personal information in your protest, please be aware that your entire protest, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Authority:** 43 U.S.C. Chap. 3.

**Geoffrey A. Graham,**

*Chief Cadastral Surveyor of Arizona.*

[FR Doc. 2019–25173 Filed 11–19–19; 8:45 am]

**BILLING CODE 4310–32–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLCA942000 L57000000.BX0000 20XL5017AR; MO#4500140382]**

### Filing of Plats of Survey: California

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of official filing.

**SUMMARY:** The plats of survey of lands described in this notice are scheduled to be officially filed in the Bureau of Land Management (BLM), California State Office, Sacramento, California, 30 calendar days from the date of this publication. The surveys, which were executed at the request of the U. S. Fish and Wildlife Service, U. S. Forest Service and the Bureau of Land Management, are necessary for the management of these lands.

**DATES:** Unless there are protests to this action, the plats described in this notice will be filed on December 20, 2019.

**ADDRESSES:** You may submit written protests to the BLM California State Office, Cadastral Survey, 2800 Cottage Way, W–1623, Sacramento, CA 95825. A copy of the plats may be obtained from the BLM California State Office, Public Room, 2800 Cottage Way, W–1623, Sacramento, California 95825, upon required payment.

**FOR FURTHER INFORMATION CONTACT:** Jon Kehler, Chief, Branch of Cadastral Survey, Bureau of Land Management, California State Office, 2800 Cottage Way, W–1623, Sacramento, California 95825; 1–916–978–4323; *jkehler@blm.gov.*

Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The Service is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The lands surveyed are:

**Mount Diablo Meridian, California**

T. 26 N, R. 6 E, dependent resurvey and subdivision of sections, for Group No. 1729, accepted August 28, 2019.

T. 9 S, R. 11 E, dependent resurvey, for Group No. 1757, accepted September 19, 2019.

T. 22 S, R. 23 E, dependent resurvey, subdivision of sections 2, 3, and 10, and metes-and-bounds survey, for Group No. 1745, accepted September 25, 2019.

T. 1 N, R. 1 W, dependent resurvey, survey, and subdivision of section 22, for Group No. 1769, accepted September 25, 2019.

T. 22 N, R. 13 E, dependent resurvey and subdivision of sections 8 and 17, for Group No. 1766, accepted September 25, 2019.

**San Bernardino Meridian, California**

T. 6 N, R. 4 W, supplemental plat of the East ½ of section 17, accepted September 25, 2019.

A person or party who wishes to protest one or more plats of survey must file a written notice of protest within 30 calendar days from the date of this publication at the address listed in the **ADDRESSES** section of this notice. Any notice of protest received after the due date will be untimely and will not be considered. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed at the same address within 30 calendar days after the notice of protest is filed. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved.

Before including your address, phone number, email address, or other personal identifying information in your notice of protest or statement of reasons, you should be aware that the documents you submit—including your personal identifying information—may be made publicly available at any time. While you can ask the BLM to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Authority:** 43 U.S.C., Chapter 3.

**Jon L. Kehler,**

*Chief Cadastral Surveyor.*

[FR Doc. 2019–25172 Filed 11–19–19; 8:45 am]

**BILLING CODE 4310–40–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–1119]**

### Certain Infotainment Systems, Components Thereof, and Automobiles Containing the Same; Notice of Request for Statements on the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the presiding administrative law judge has issued a Final Initial Determination on Section 337 Violation and a Recommended Determination on Remedy and Bonding in the above-captioned investigation. The Commission is soliciting comments on public interest issues raised by the recommended relief, should the Commission find a violation. This notice is soliciting public interest comments from the public only. Parties are to file public interest submissions pursuant to Commission rules.

**FOR FURTHER INFORMATION CONTACT:** Lynde Herzbach, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3228. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's Electronic Docket Information System (''EDIS'') (*https://edis.usitc.gov*). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** Section 337 of the Tariff Act of 1930 (''section 337'') provides that if the Commission finds a violation it shall exclude the articles concerned from the United States unless the public interest factors listed in 19 U.S.C. 1337(d)(1) prevent such action. A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is soliciting comments on public interest issues raised by the recommended relief should the Commission find a violation, specifically whether the Commission should issue:

(1) A limited exclusion order (''LEO'') against certain infotainment systems, components thereof, and automobiles containing same that are imported, sold for importation, and/or sold after importation by respondents: Toyota Motor Corporation of Toyota City, Japan; Toyota Motor North America, Inc. of Plano, TX; Toyota Motor Sales, U.S.A., Inc. of Plano, TX; Toyota Motor Engineering & Manufacturing North America, Inc. of Plano, TX; Toyota Motor Manufacturing, Indiana, Inc. of Princeton, IN; Toyota Motor Manufacturing, Kentucky, Inc. of Erlanger, KY; Toyota Motor Manufacturing, Mississippi, Inc. of Tupelo, MS; Toyota Motor Manufacturing, Texas, Inc. of San Antonio, TX; Panasonic Corporation of Osaka, Japan; Panasonic Corporation of North America of Newark, NJ; DENSO TEN Limited of Kobe City, Japan; DENSO TEN America Limited of Torrance, CA; Renesas Electronics Corporation of Tokyo, Japan; Renesas Electronics America, Inc. of Milpitas, CA; Japan Radio Corporation of Tokyo, Japan; Pioneer Corporation of Tokyo, Japan; Pioneer Automotive Technologies, Inc. of Farmington Hills, MI; DENSO Corporation of Kariya, Aichi, Japan; DENSO International America, Inc. of Southfield, MI; DENSO Manufacturing Tennessee, Inc. of Maryville, TN; DENSO Wireless Systems America, Inc. of Vista, CA; u-blox AG of Thalwil, Switzerland; u-blox America, Inc. of Reston, VA; u-blox San Diego, Inc. of San Diego, CA; and Socionext Inc. of Yokohama, Kanagawa, Japan; and/or

(2) cease and desist orders (''CDOs'') against respondents: Toyota Motor Sales, U.S.A., Inc.; Panasonic Corporation of North America; Pioneer Automotive Technologies, Inc.; DENSO TEN America Limited; DENSO International America, Inc.; DENSO Manufacturing Tennessee, Inc.; DENSO Wireless Systems America, Inc.; u-blox America, Inc.; u-blox San Diego, Inc.; and Renesas Electronics America, Inc.

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4). In addition, members of the public are hereby invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the administrative law judge's Recommended Determination on Remedy and Bonding issued in this investigation on November 13, 2019. Comments should address whether issuance of the LEOs and/or CDOs in this investigation, should the Commission find a violation, would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the recommended orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) Identify like or directly competitive articles that complainants, their licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) Indicate whether complainants, complainants' licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the recommended exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) Explain how the LEO and CDO would impact consumers in the United States.

Written submissions from the public must be filed no later than by close of business on December 18, 2019.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–1119'') in a prominent place on the cover page and/or the first page. (*See Handbook for Electronic Filing Procedures, https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf.*). Persons with questions regarding filing should contact the Secretary (202–205–2000). Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews,

and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: November 14, 2019.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2019–25102 Filed 11–19–19; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Request for Intervention, Longshore and Harbor Workers' Compensation Act

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Department of Labor (DOL) is submitting the Office of Workers' Compensation Programs (OWCP) sponsored information collection request (ICR) proposal titled, ''Request for Intervention, Longshore and Harbor Workers' Compensation Act,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before December 20, 2019.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201910-1240-001* (this link will only become active on the day following publication of this notice) or by contacting Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OWCP, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

**SUPPLEMENTARY INFORMATION:** This ICR seeks PRA authority for the Request for Intervention, Longshore and Harbor Workers' Compensation Act information collection. Parties to LHWCA claims ask OWCP District Directors (DD), who administer claims, to take a variety of routine actions, each depending on the claim. Currently, there is no uniform method for either requesting DD action or submitting the information necessary for the DD to evaluate the request. Parties submit the information in various formats. Capturing the required information in one form will save time, effort and cost for the federal government and simplify filing for the parties. The forms will also help OWCP properly classify different types of documents as it moves into a fully electronic case file environment and speed delivery of services to stakeholders.

This proposed information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB, under the PRA, approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. For additional information, see the related notice published in the **Federal Register** on August 07, 2019 (84 FR 38672).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB ICR Reference Number 201910–1240–001. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility:
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including 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.

*Agency:* DOL–OWCP.

*Title of Collection:* Request for Intervention, Longshore and Harbor Workers' Compensation Act.

*OMB ICR Reference Number:* 201910–1240–001.

*Affected Public:* Individuals or Households.

*Total Estimated Number of Respondents:* 12,414.

*Total Estimated Number of Responses:* 12,414.

*Total Estimated Annual Time Burden:* 3,193 hours.

*Total Estimated Annual Other Costs Burden:* $60,284.

**Authority:** 44 U.S.C. 3507(a)(1)(D).

Dated: November 13, 2019.

**Frederick Licari,**

*Departmental Clearance Officer.*

[FR Doc. 2019–25091 Filed 11–19–19; 8:45 am]

**BILLING CODE 4510–CH–P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

### Petitions for Modification of Application of Existing Mandatory Safety Standard

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

**DATES:** All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before December 20, 2019.

**ADDRESSES:** You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Email: zzMSHA-comments@dol.gov* Include the docket number of the petition in the subject line of the message.
2. *Facsimile:* 202–693–9441.
3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect a copy of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

**FOR FURTHER INFORMATION CONTACT:** Sheila McConnell, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *McConnell.Sheila.A@dol.gov* (email), or 202–693–9441 (facsimile). [These are not toll-free numbers.]

**SUPPLEMENTARY INFORMATION:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification.

#### I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor (Secretary) determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements for filing petitions for modification.

#### II. Petitions for Modification

*Docket Number:* M–2019–054–C.
*Petitioner:* Castle Valley Mining LLC, P.O. Box 475, Huntington, UT 84528.
*Mines:* Castle Valley Mine #3, MSHA I.D. No. 42–02263 and Castle Valley Mine #4, MSHA I.D. No. 42–02335, located in Emery County, UT.
*Regulation Affected:* 75.1909(b)(6) (Nonpermissible diesel-powered equipment; design and performance requirements).
*Modification Request:* The petitioner requests a modification of the existing standard to allow use of a Getman Corporation, Getman RDG 1504–C Diesel Roadbuilder, Serial No. 6579, a four- wheel-drive, low-profile unit equipped with a grader blade that can be outfitted for underground mining operations, as it was originally designed without front brakes.

The petitioner states that:

(1) The petitioner utilizes a Getman Corporation, Getman RDG 1504–C Diesel Roadbuilder at the Castle Valley No. 3 and Castle Valley No. 4 mines. The Getman Roadbuilder was manufactured without front wheel brakes.

(2) The petitioner states that it is not feasible to install front wheel brakes on the Getman Roadbuilder.

As an alternative to the existing standard, the petitioner proposes the following:

(a) The petitioner will limit the maximum speed of the Getman Roadbuilder to 10 miles per hour (MPH) by permanently blocking out any gear that would provide a higher speed than 10 MPH. This would limit the vehicle speed in both forward and reverse to a maximum of 10 MPH.

(b) The petitioner will train the grade operator to drop the grader blade in the event that the brakes fail.

(c) The petitioner asserts that the proposed alternative method of limiting the Getman Roadbuilder's speed to 10 MPH and training the grade operator guarantees no less than the same measure of protection afforded by the existing standard under 30 CFR 75.1909(b)(6).

*Docket Number:* M–2019–055–C.
*Petitioner:* INMET Mining, LLC, 144 E Market Place Blvd., Knoxville, TN 37922.
*Mine:* D–31 Cut Through, MSHA I.D. No. 44–06782, located in Lee County, Virginia.
*Regulation Affected:* 30 CFR 75.1108(c) (Approved conveyor belts).
*Modification Request:* The petitioner requests a modification of the existing 30 CFR 75.1108(c) standard as applied to the conveyor belt that travels through the D–31 Cut Through Mine connecting the operator's Kentucky Mining Operations to the Preparation Plant located at St. Charles, VA. The petitioner submits that a modification of the Part 14 belt standard is warranted because the existing safety measures that the petitioner has in place will make the conveyor belt in the D–31 Cut Through Mine as safe as is required by Part 14.

The petitioner states that:

(1) The D–31 Cut Through Mine was developed in the late 1990's in order to create a belt conveyor corridor from the operator's Kentucky Mining Operations to the P–14 Preparation Plant at St. Charles, VA (MSHA ID No. 44–05898). The belt conveyor corridor through the mountain ridge was created to avoid the trucking of raw coal and rock products through a dangerous, narrow road to get to the P–14 Preparation Plant. The D–31 Cut Through Mine transports coal, via the conveyor belt, from D28 Huff Creek Mine (MSHA ID No. 15–17234), the D29 Darby Fork Mine (MSHA ID No. 15–02263), and D30 Clover Fork Mine (MSHA ID No. 15–18647). The underground mines belt the coal to the Central Surface Stockpile area, where it is fed onto the conveyor belt and transported to the P–14 Preparation Plant.

(2) The D–31 Cut Through Mine is approximately 9,300 feet in depth or length. It has approximately 1,200 feet of maximum cover at the center of the ridge and it has 600 feet of cover overall. The mine has two surface portals, one at either side of the ridge, and an immediate escape-way in either direction from underground.

(3) Once the main line was advanced through the mountain ridge, underground mining activities were halted and the equipment was removed. In 2003, the mine became Active Non-Producing Status and a steel cable belting conveyor was installed to go from the Day's Creek Stockpile Area to the P–14 Preparation Plant.

(4) The conveyor belt is a continuous belt system, without any underground

transfer points, head drives, or major infrastructure other than the belt system itself. The tail piece of the belting conveyor is outside of the mine on the Day's Creek Stockpile Area side and the Head Drive is outside of the mine on the P–14 Preparation Plant side.

(5) The mine ventilation is purely intake air from all four-five headings. The ventilation system intakes from the Day's Creek Stockpile Area side to the main mine fan, which is located on the P–14 Preparation Plant side. There are no worked out, sealed, gob, or face areas in the mine, allowing for air intake throughout.

The petitioner proposes the following alternative method:

(a) Due to the existing fire safety features within the D–31 Cut Through belting corridor, the operator is petitioning for the continued use of the existing steel cable conveyor belt in the D–31 Cut Through Mine.

(b) The only underground electrical power sources in the mine are low voltages and used to operate underground mine phones, belt monitoring equipment, employee tracking, and communication equipment.

(c) There are no underground belt drives, take-up units or transfer points, reducing the potential for frictional heat sources in the mine.

(d) The belt conveyor, which has been in operation since 2003, is one continuous length (19,500 lineal feet), using vulcanized splices, reducing the heat potential.

(e) The mine has a three-inch water line running parallel to the entire length of the belt conveyor along with fire valves every 300 feet along the belt conveyor.

(f) Fire-fighting equipment is accessible at both the surface portals and in the underground mine. In addition, an underground fire-fighting hose is stored along the belt conveyor and it can reach the entirety of the belt conveyor from the fire valves.

(g) The main travelway of the D–31 Cut Through Mine is adjacent to the belt conveyor, so that the examination of the entire belt conveyor is possible each time the travelway is examined.

(h) A certified foreman examines the conveyor belt each shift it is in operation. All hazardous conditions are recorded in an examination book that is kept at the surface. Hazardous conditions are corrected according to 30 CFR.

(i) The Certified Foreman(s) making the examinations are equipped with gas detection equipment to monitor the mine atmosphere for potential harmful gases and or potential fires.

(j) The Certified Foreman(s) are equipped with heat detection equipment to check the temperature of the belting conveyor and the associated belt idlers to detect the possible increase of temperature and replace belt idles early to reduce the heat and fire potential.

(k) The mine has CO monitors at 1,000 foot intervals along the belt conveyor that are continuously checked from a central location.

(l) There is no coal production, so there is no return air course. All entries are intake air. The belt air velocity is typically greater than 100 feet per minute. CO monitors along the belt conveyor alert the command center when CO levels reach 8PPM above ambient. If CO levels are above 13PPM, an alarm is sounded.

(m) The D–31 Cut Through Mine does not have a history of Methane gas.

(n) The mine is open at both ends, so that if the mechanical ventilation fan stops due to mechanical issues, natural ventilation will still occur.

(o) The mine has portals at both ends of the mine and employees have additional escape-ways if there is an emergency.

(p) The Certified Foreman and other employees are tracked throughout the mine and their locations are monitored. These individuals communicate through hand held radios, underground mine phones, and a dial up telephone that is located midway through the underground mine.

(q) Each end of the belt has turnovers so that no belt rollers come in contact with the coal carrying dirty side of the belt. This lowers fire risks, since combustible material does not come in contact with the belt during belt turnovers.

(r) Since the underground mine does not have belt drives, transfer points or take up units, combustible materials including grease and oil are not used.

(s) The state of Kentucky and the state of Virginia have committed emergency mine rescue teams within one hour from the mine in the event of an emergency.

(t) Unless there is additional work required, miner exposure to the D–31 Cut Through Mine is minimal and limited to: Inspection by the Certified Foreman; occasional clean up; and belt replacements.

(u) The underground floor and coal ribs are generally damp, which reduces the possibility of a fire.

(v) Since being built in 2003, there have been no accidents related to the belt conveyor or the D–31 Cut Through.

(w) The operator wishes to continue to use the existing belt in the D–31 Cut Through until the end of its life, which is approximately 5 years. Once the current belt needs to be replaced, it will be done so with Part 14 approved belting. The operator finds that if the purpose of 75.1108(c) is to reduce the potential for a fire, the current safeguards meet such a fire safety standard.

*Docket Number:* M–2019–056–C.

*Petitioner:* Marfork Coal Company, LLC, P.O. Box 457, Whitesville, WV 25209.

*Mine:* Markfork Processing, MSHA I.D. No. 46–08374, located in Raleigh County, West Virginia.

*Regulation Affected:* 30 CFR 77.214(a) (Refuse piles; general).

*Modification Request:* The petitioner requests a modification of the existing 30 CFR 77.214(a) standard as applied to refuse piles. The petitioner is requesting this modification in order to backfill six abandoned mine openings with coal refuse as an alternative to 30 CFR 77.214(a), which does not allow locating refuse piles over abandoned mine openings.

The petitioner states that:

(6) The six mine openings to be backfilled are located in the Winifrede seam, which has an elevation of between 2000′ and 2030′. The six mine openings were formerly associated with the abandoned Dorothy Mine that was operated by C&O Railway Fuel Mine Operations.

(7) Two of the six mine openings have not been sealed while the other four are sealed with dirt. There are no pipes currently installed at any of the entries.

(8) The mine dips to the northwest. Five of the six entries are on the down-dip side of the mine while the last entry is north of the hollow. Water from the six openings currently flows into an already existing diversion ditch. There is no evidence that water is regularly discharged from any of the openings.

The petitioner proposes the following alternative method:

(a) The six openings of the mine will be covered using coal refuse as the construction material. All six openings will be back-stowed to a length of 25 feet, as is required by 30 CFR 75.1711–2, using soil and rock or flowable fill material such as JennChem Tek Seals or an equivalent.

(b) The petitioner will build an underdrain system consisting of durable rock cobbles and a perforated pipe, wrapped in filter fabric. It will be installed at the base of the highwall along all six of the mine openings.

(c) Two drains will be installed, one for the five entries on the down-dip side of the mine and a second for the entry north of the hollow. Each of the mine

entry pipes for the five entries on the down-dip side of the mine will be connected and piped to the underdrain pipe.

(d) The mine entry pipes will be extended by a minimum of 40 feet inby the opening and located along the rib in order to minimize potential damage to the pipes during the backfill process. The underdrain and mine drain will be extended to release into a perimeter ditch located at the refuse facility.

(e) The mine openings and exposed coal seam will be covered with at least four feet ofnon-combustible, non-refuse material including soil and rock.

(f) In the event that water accumulates near sealed openings, an internal drainage system will be constructed to provide a controlled outlet to mitigate any potential combustion.

(g) The backfill zone isolates mine workings and the coal seam from the proposed coal refuse fill, minimizing the potential for fire to spread from the mine to the refuse fill.

(h) The coal refuse will be located in a maximum of two-foot lifts, reducing the possibility of spontaneous combustion.

(i) The proposed backfill plan limits the potential for combustion of the refuse or coal seam, which fulfills the intent of 30 CFR 77.214(a). The petitioner states that the proposed alternative provides an equivalent or greater method of protection than is required by 30 CFR 77.214(a).

*Docket Number:* M–2019–007–M.

*Petitioner:* Genesis Alkali, LLC, P.O. Box 872, 580 Westvaco Rd., Green River, WY 82935.

*Mine:* Genesis Alkali @WESTVACO, MSHA I.D. No. 48–00152, located in Sweetwater County, WY.

*Regulation Affected:* 30 CFR 57.22305 (Approved equipment (III mines)).

*Modification Request:* The petitioner requests a modification of the existing 30 CFR 57.22305 standard to permit an alternative, non-MSHA approved Powered Air Purifying Respirator (PAPR). The petitioner requests a modification of the existing standard to permit an alternative method that will provide the same measure of protection as the standard requires. The alternative PAPR is the 3M Versaflo TR–800 Intrinsically Safe Powered Air Purifying Respirator.

The petitioner states that:

(1) The petitioner's mine, Genesis Alkali @ Westvaco, is an underground, Class III trona mine. The petitioner has historically provided miners who wish to voluntarily wear respirators with 3M Airstream Headgear-Mounted PAPRs. These respirators are MSHA approved but they will be discontinued in 2020, according to the manufacturer.

(2) The proposed modification seeks relief from the application of 30 CFR 57.22305, and requests the use of a non-MSHA approved, intrinsically safe, PAPR for the purpose of providing respiratory protection and fresh air flow for miners who are potentially exposed to nuisance dust. Such non-approved equipment would be used among miners working under normal mining conditions in or beyond the last open crosscut and where methane may enter the air current.

(3) The petitioner notes that the National Institute for Occupational Safety and Health essentially states that the TR–800 was tested to standards that should be considered equivalent to the MSHA ACRI2001 criteria.

The petitioner proposes the following:

Miners who wish to use PAPRs will use the 3M Versaflo TR–800 Intrinsically Safe Powered Air Purifying Respirator (''TR–800''). While it is not approved by MSHA, under 30 CFR parts 18 through 36, the TR–800 has been extensively tested and approved as intrinsically safe under the testing standards of Underwriters Laboratory (UL, which operates in the United States and Canada), the American National Standards Institute (ANSI), and the International Electrotechnical Commission (IEC). Thus, the petitioner believes that the proposed alternative method of using the TR–800 will at all times guarantee no less than the same measure of protection afforded by the MSHA standard.

**Sheila McConnell,**

*Director, Office of Standards, Regulations, and Variances.*

[FR Doc. 2019–25092 Filed 11–19–19; 8:45 am]

**BILLING CODE 4520–43–P**

## DEPARTMENT OF LABOR

### Wage and Hour Division

### Agency Information Collection Activities; Comment Request; Information Collections: Application of the Employee Polygraph Protection Act

**AGENCY:** Wage and Hour Division, Department of Labor.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Department of Labor (DOL) is soliciting comments concerning a proposed extension to the information collection request (ICR) titled, ''Application of the Employee Polygraph Protection Act.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. A copy of the proposed information request can be obtained by contacting the office listed below in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

**DATES:** Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before January 21, 2020.

**ADDRESSES:** You may submit comments identified by Control Number 1235–0005, by either one of the following methods: *Email: WHDPRAComments@dol.gov; Mail, Hand Delivery, Courier:* Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210.

*Instructions:* Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via email or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for Office of Management and Budget (OMB) approval of the information collection request.

**FOR FURTHER INFORMATION CONTACT:** Robert Waterman, Compliance Specialist, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Copies of this notice may be obtained in alternative formats (Large Print, Braille, Audio Tape, or Disc), upon request, by calling (202) 693–0023 (not a toll-free number). TTY/TTD callers may dial toll-free (877) 889–5627 to obtain information or request materials in alternative formats.

**SUPPLEMENTARY INFORMATION:**

*I. Background:* The Wage and Hour Division (WHD) of the Department of Labor (DOL) administers the Employee

Polygraph Protection Act of 1988 (EPPA), 29 U.S.C. 2001 *et seq.* The EPPA prohibits most private employers from using any lie detector tests either for pre-employment screening or during the course of employment. The Act contains an exemption applicable to Federal, State and local government employers. The EPPA also contains several limited exemptions authorizing polygraph tests under certain conditions, including testing: (1) By the Federal Government of experts, consultants, or employees of Federal contractors engaged in national security intelligence or counterintelligence functions; (2) of employees the employer reasonably suspects of involvement in a workplace incident resulting in economic loss or injury to the employer's business; (3) of some prospective employees of private armored cars, security alarm and security guard firms; and (4) of some current and prospective employees of certain firms authorized to manufacture, distribute, or dispense controlled substances. The WHD may assess civil money penalties against employers who violate any EPPA provision. This amount increases annually due to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. On November 2, 2015, the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 was signed into law to advance the effectiveness of civil money penalties and to strengthen their deterrent effect. Outdated penalties are a problem because civil penalties are less effective when they do not keep pace with the cost of living. The law directs agencies across the federal government to adjust their penalties for inflation each year in January.

*II. Review Focus:* The Department of Labor is particularly interested in comments which:

- 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;
- Enhance the quality, utility, and clarity of the information to be collected;
- 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;
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

*III. Current Actions:* The Department of Labor seeks an approval for the extension of this information collection in order to ensure effective administration of the Employee Polygraph Protection Act.

*Type of Review:* Extension.

*Agency:* Wage and Hour Division.

*Title:* Application of the Employee Polygraph Protection Act.

*OMB Number:* 1235–0005.

*Affected Public:* Business or other for-profit, Not-for-profit institutions, Farms, State, Local, or Tribal Government.

*Total Respondents:* 593,400.

*Total Annual Responses:* 593,400.

*Estimated Total Burden Hours:* 68,739.

*Estimated Time per Response:* 30–45 minutes.

*Frequency:* On occasion.

*Total Burden Cost (capital/startup):* $0.

*Total Burden Cost (operation/maintenance):* $0.

Dated: November 13, 2019.

**Amy DeBisschop,**

*Director, Division of Regulations, Legislation, and Interpretation.*

[FR Doc. 2019–25089 Filed 11–19–19; 8:45 am]

**BILLING CODE 4510–27–P**

## OFFICE OF MANAGEMENT AND BUDGET

### Office of Federal Procurement Policy

### Cost Accounting Standards Board Meeting Agenda

**AGENCY:** Cost Accounting Standards Board, Office Federal Procurement Policy, Office of Management and Budget.

**ACTION:** Notice of agenda for closed Cost Accounting Standards Board meetings.

**SUMMARY:** The Office of Federal Procurement Policy (OFPP), Cost Accounting Standards Board (CAS Board) is publishing this notice to advise the public of its fall meetings. The notice is published pursuant to section 820(a) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017, which requires the CAS Board to publish agendas of its meetings in the **Federal Register**. The meetings are closed to the public.

**DATES:** November 21, 2019.

**ADDRESSES:** New Executive Office Building, 725 17th Street NW, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Raymond Wong, Staff Director, Cost Accounting Standards Board (telephone: 202–395–6805; email: *rwong@omb.eop.gov*). The CAS Board is issuing this notice for public awareness of a meeting held on October 8, 2019 and a meeting upcoming on November 21, 2019. The list of agenda items for these meetings is set forth below. While CAS Board meetings are closed to the public, the Board welcomes comments and inquiries, which may be directed to the staff director using the contact information above.

**Agenda for CAS Board Meetings on October 8, 2019 and November 21, 2019**

1. *Conformance of Cost Accounting Standards (CAS) to Generally Accepted Accounting Principles (GAAP).* Section 820 requires the CAS Board to review and conform CAS, where practicable, to GAAP. In furtherance of section 820, the CAS Board is discussing the following tentatively planned actions, taking into account comments received in response to the staff discussion paper (SDP) it published on March 13, 2019 (84 FR 9143): (1) A notice addressing public comments received on its framework principles to guide its conformance analyses; (2) an advanced notice of proposed rulemaking (ANPRM) addressing the conformance of CAS to GAAP on revenue recognition and lease accounting; and (3) an ANPRM on conformance of CAS 408, Accounting for Costs of Compensated Personal Absence, and CAS 409, Cost Accounting Standard Depreciation of Tangible Capital Assets, to GAAP. The CAS Board will also discuss an SDP on conformance of CAS 404, Capitalization of Tangible Assets, and CAS 411, Accounting for Acquisition Costs of Material, to GAAP.

2. *CAS Board Annual Report for Fiscal Year 2019.* Section 820 amended 41 U.S.C. 1501(e) to require the Board to submit a report to Congress annually on the actions taken by the Board during the prior year. The Board is reviewing its FY 2019 activities in preparation of the drafting of its first annual report to Congress.

**Michael E. Wooten,**

*Administrator for Federal Procurement Policy, and Chair, Cost Accounting Standards Board.*

[FR Doc. 2019–25169 Filed 11–19–19; 8:45 am]

**BILLING CODE 3110–01–P**

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

**[NARA–19–0016; NARA–2020–008]**

### Records Schedules; Availability and Request for Comments

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice of availability of proposed records schedules; request for comments.

**SUMMARY:** The National Archives and Records Administration (NARA) publishes notice of certain Federal agency requests for records disposition authority (records schedules). We publish notice in the **Federal Register** and on regulations.gov for records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on such records schedules.

**DATES:** NARA must receive comments by January 6, 2020.

**ADDRESSES:** You may submit comments by either of the following methods. You must cite the control number, which appears on the records schedule in parentheses after the name of the agency that submitted the schedule.

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *Mail:* Records Appraisal and Agency Assistance (ACR); National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001.

**FOR FURTHER INFORMATION CONTACT:** Records Management Operations by email at *request.schedule@nara.gov,* by mail at the address above, or by phone at 301–837–1799.

**SUPPLEMENTARY INFORMATION:**

#### Public Comment Procedures

We are publishing notice of records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on these records schedules, as required by 44 U.S.C. 3303a(a), and list the schedules at the end of this notice by agency and subdivision requesting disposition authority.

In addition, this notice lists the organizational unit(s) accumulating the records or states that the schedule has agency-wide applicability. It also provides the control number assigned to each schedule, which you will need if you submit comments on that schedule. We have uploaded the records schedules and accompanying appraisal memoranda to the *regulations.gov* docket for this notice as ''other'' documents. Each records schedule contains a full description of the records at the file unit level as well as their proposed disposition. The appraisal memorandum for the schedule includes information about the records.

We will post comments, including any personal information and attachments, to the public docket unchanged. Because comments are public, you are responsible for ensuring that you do not include any confidential or other information that you or a third party may not wish to be publicly posted. If you want to submit a comment with confidential information or cannot otherwise use the *regulations.gov* portal, you may contact *request.schedule@nara.gov* for instructions on submitting your comment.

We will consider all comments submitted by the posted deadline and consult as needed with the Federal agency seeking the disposition authority. After considering comments, we will post on *regulations.gov* a ''Consolidated Reply'' summarizing the comments, responding to them, and noting any changes we have made to the proposed records schedule. We will then send the schedule for final approval by the Archivist of the United States. You may elect at *regulations.gov* to receive updates on the docket, including an alert when we post the Consolidated Reply, whether or not you submit a comment. If you have a question, you can submit it as a comment, and can also submit any concerns or comments you would have to a possible response to the question. We will address these items in consolidated replies along with any other comments submitted on that schedule.

We will post schedules on our website in the Records Control Schedule (RCS) Repository, at *https://www.archives.gov/records-mgmt/rcs,* after the Archivist approves them. The RCS contains all schedules approved since 1973.

#### Background

Each year, Federal agencies create billions of records. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives or to destroy, after a specified period, records lacking continuing administrative, legal, research, or other value. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

Agencies may not destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value. Public review and comment on these records schedules is part of the Archivist's consideration process.

#### Schedules Pending

1. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives, National Integrated Ballistic Information Network System Records (DAA–0436–2018–0004).

2. Administrative Office of the United States Courts, Judicial Services Office, Subject Files (DAA–0116–2019–0005).

**Laurence Brewer,**

*Chief Records Officer for the U.S. Government.*

[FR Doc. 2019–25170 Filed 11–19–19; 8:45 am]

**BILLING CODE 7515–01–P**

## NATIONAL CREDIT UNION ADMINISTRATION

### Agency Information Collection Activities: Proposed Collection; Comment Request; Registration of Mortgage Loan Originators

**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 January 21, 2020 to be assured consideration.

**ADDRESSES:** Interested persons are invited to submit written comments on the information collection to Dawn

Wolfgang, National Credit Union Administration, 1775 Duke Street, Suite 6032, Alexandria, Virginia 22314; Fax No. 703–519–8579; or Email at *PRAComments@NCUA.gov.*

**FOR FURTHER INFORMATION CONTACT:** Address requests for additional information to Dawn Wolfgang at the address above or telephone 703–548–2279.

**SUPPLEMENTARY INFORMATION:**

*OMB Number:* 3133–0181.

*Title:* Registration of Mortgage Loan Originators.

*Type of Review:* Extension of a currently approved.

*Abstract:* The Secure and Fair Enforcement for Mortgage Licensing Act (S.A.F.E. Act), 12 U.S.C. 5101 *et seq.,* as codified by 12 CFR part 1007, requires an employee of a bank, savings association, or credit union or a subsidiary regulated by a Federal banking agency or an employee of an institution regulated by the Farm Credit Administration (FCA), (collectively, Agency-regulated Institutions) who engages in the business of a residential mortgage loan originator (MLO) to register with the Nationwide Mortgage Licensing System and Registry (Registry) and obtain a unique identifier. Agency-regulated institutions must also adopt and follow written policies and procedures to assure compliance with the S.A.F.E. Act. The Registry is intended to aggregate and improve the flow of information to and between regulators; provide increased accountability and tracking of mortgage loan originators; enhance consumer protections; reduce fraud in the residential mortgage loan origination process; and provide consumers with easily accessible information at no charge regarding the employment history of, and the publicly adjudicated disciplinary and enforcement actions against MLOs.

*Affected Public:* Private Sector: Not-for-profit institutions; Individuals or households.

*Estimated No. of Respondents:* 69,036.

*Estimated No. of Responses per Respondent:* 2.21.

*Estimated Total Annual Responses:* 154,733.

*Estimated Burden Hours per Response:* 0.43 per individual; 6.38 per institution.

*Estimated Total Annual Burden Hours:* 83,965.

*Reason for Change:* The number of respondents have been updated to reflect current data reported by the Registry and the NCUA call report.

*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 November 14, 2019.

Dated: November 15, 2019.

**Dawn D. Wolfgang,**

*NCUA PRA Clearance Officer.*

[FR Doc. 2019–25119 Filed 11–19–19; 8:45 am]

**BILLING CODE 7535–01–P**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Institute of Museum and Library Services

### Submission for OMB Review, Comment Request, Proposed Collection Requests: State Library Administrative Agency Survey FY20 and FY22

**AGENCY:** Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

**ACTION:** Submission for OMB review, comment request.

**SUMMARY:** The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. By this notice, IMLS is soliciting comments concerning the continuance of the State Library Administrative Agencies Survey for FY 2020 and FY 2022.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

**DATES:** Written comments must be submitted to the office listed in the **FOR FURTHER INFORMATION CONTACT** section below on or before December 20, 2019.

OMB is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses).

**ADDRESSES:** Comments should be sent to Office of Information and Regulatory Affairs, *Attn.:* OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395–7316.

**FOR FURTHER INFORMATION CONTACT:** Dr. Matthew Birnbaum, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Dr. Birnbaum can be reached by Telephone: 202–653–4760, Fax: 202–653–4608, or by email at *mbirnbaum@imls.gov,* or by teletype (TTY/TDD) for persons with hearing difficulty at 202–653–4614.

**SUPPLEMENTARY INFORMATION:** The Institute of Museum and Library Services is the primary source of federal support for the nation's libraries and museums. We advance, support, and empower America's museums, libraries, and related organizations through grant making, research, and policy development. Our vision is a nation where museums and libraries work together to work together to transform the lives of individuals and communities. To learn more, visit *www.imls.gov.*

*Current Actions:* The State Library Administrative Agencies Survey has been conducted by the Institute of Museum and Library Services under the clearance number 3137–0072, which

expires 01/31/2020. State Library Administrative Agencies (SLAAs) are the official agencies of each state charged by state law with the extension and development of public library services throughout the state. (20 U.S.C. Chapter 72, 20 U.S.C. 9122.) The purpose of this survey is to provide state and federal policymakers with information about SLAAs, including their governance, allied operations, developmental services to libraries and library systems, support of electronic information networks and resources, number and types of outlets, and direct services to the public. Through the FY 2010 collection, the SLAA Survey was conducted annually; beginning with the FY 2012 collection, the survey is conducted biennially. Because the FY 2020 collection will not begin until early 2021, we are carrying over the documentation and estimated burden associated with the FY 2018 data. This action is to request a new three year approval of the IMLS administered State Library Administrative Agencies Survey. The 60-day notice for the State Library Administrative Agencies Survey, FY 2020 & FY 2022, was published in the **Federal Register** on August 27, 2019 (84 FR 44943). No comments were received.

*Agency:* Institute of Museum and Library Services.

*Title:* State Library Administrative Agencies Survey, FY 2020.

*OMB Number:* 3137–0072.

*Agency Number:* 3137.

*Affected Public:* Federal, State and local governments, State library administrative agencies, libraries, general public.

*Number of Respondents:* 51.

*Frequency:* Biennially.

*Burden Hours per Respondent:* 25.

*Total Burden Hours:* 1,275.

*Total Annual Costs:* $287,304.

Dated: November 15, 2019.

**Kim Miller,**

*Grants Management Specialist, Institute of Museum and Library Services.*

[FR Doc. 2019–25122 Filed 11–19–19; 8:45 am]

**BILLING CODE 7036–01–P**

## NATIONAL TRANSPORTATION SAFETY BOARD

### Sunshine Act Meeting

**TIME AND DATE:** 9:30 a.m., Tuesday, December 10, 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:**

PMA# Aircraft Accident Report—Inadvertent Activation of the Fuel Shutoff Lever, Subsequent Loss of Engine Power, and Ditching on the East River, Liberty Helicopters Inc., Operating a FlyNYON Doors-off Flight, Airbus Helicopters AS350 B2, N350LH, New York, New York, March 11, 2018.

**NEWS MEDIA CONTACT:** Telephone: (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, December 4, 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.*

**FOR MORE INFORMATION CONTACT:** Candi Bing at (202) 314–6403 or by email at *bingc@ntsb.gov.*

**FOR MEDIA INFORMATION CONTACT:** Chris O'Neil by email at *chris.oneil@ntsb.gov* or at (202) 314–6100.

**Authority:** 5 U.S.C. 552b

November 18, 2019.

**Candi R. Bing,**

*Federal Register Liaison Officer.*

[FR Doc. 2019–25309 Filed 11–18–19; 4:15 pm]

**BILLING CODE 7533–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2018–0170]**

### Guidance for Implementation of Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft NUREG; request for comments.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is revising its guidance for implementation of physical protection of Category 1 and Category 2 quantities of radioactive material. The NRC is requesting public comments on draft NUREG–2155, Revision 2, ''Implementation Guidance for 10 CFR part 37, 'Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material.' '' The document has been updated from NUREG–2155, Revision 1, to include revisions to questions and answers and guidance related to general provisions in the rule, background investigations and access authorization programs, and physical protection requirements during use and in transit.

**DATES:** Submit comments by February 18, 2020. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

**ADDRESSES:** 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–2018–0170. 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:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on accessing information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Paul Goldberg, Office of Nuclear Material Safety and Safeguards; U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7842; email: *Paul.Goldberg@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

#### I. Obtaining Information and Submitting Comments

*A. Obtaining Information*

Please refer to Docket ID NRC–2018–0170 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2018–0170.
- *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 draft NUREG–2155, is available in ADAMS under Accession No. ML19298A303.

• *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 public website:* The draft NUREG–2155, Revision 2 is also available on the NRC's public website at *https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/* under ''Implementation Guidance for 10 CFR part 37, 'Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material' '' (NUREG–2155).

*B. Submitting Comments*

Please include Docket ID NRC–2018–0170 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 that you do not want 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 submissions into ADAMS.

## II. Additional Information

NUREG–2155, Revision 2 is intended to provide guidance on, and to assist applicants and licensees in, the implementation of part 37 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material.'' This document describes methods that the NRC finds acceptable for implementing the regulations. The purpose of this notice is to provide the public with an opportunity to review and provide comments on draft NUREG–2155, Revision 2. These comments will be considered in the final version or subsequent revisions.

Dated at Rockville, Maryland, this 15th day of November, 2019.

For the Nuclear Regulatory Commission.

**Paul J. Michalak,**

*Acting Director, Division of Materials Safety, Security, State and Tribal Programs, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2019–25163 Filed 11–19–19; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 071–9305; NRC–2019–0188]**

## Nuclear Waste Partnerships, LLC

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Environmental assessment and finding of no significant impact; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing an environmental assessment (EA) and finding of no significant impact (FONSI) for an exemption request from Nuclear Waste Partnerships, LLC for the one-time shipment of transuranic waste in two TRUPACT–III packages from the Savannah River Site, Aiken, South Carolina, to the Waste Isolation Pilot Plant, Carlsbad, New Mexico.

**DATES:** The EA and FONSI referenced in this document are available on November 20, 2019.

**ADDRESSES:** Please refer to Docket ID NRC–2019–0188 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0188. 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.

• *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 ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

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

**FOR FURTHER INFORMATION CONTACT:** Pierre Saverot, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7505; email: *Pierre.Saverot@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Introduction

On January 28, 2014, Nuclear Waste Partnership, LLC (NWP) requested an exemption pursuant to section 71.12 of title 10 of the *Code of Federal Regulations* (10 CFR), for approval of two shipments, each containing a single package of the Model No. TRUPACT–III package, from the Savannah River Site (SRS) in Aiken, South Carolina to the Waste Isolation Pilot Plant (WIPP) near Carlsbad, New Mexico. NWP requested an exemption from the requirements of 10 CFR 71.61, ''Special Requirements for Type B Packages Containing More than $10^5$ $A_2$,'' and authorization for an increase in the decay heat and $A_2$ limit beyond the limits in Certificate of Compliance No. 9305. On June 29, 2016, the NRC granted NWP's exemption request and reissued, on May 15, 2019, that authorization and exemption to correct a typographical error in one of the serial numbers for the Standard Large Box 2 (SLB2) associated with the TRUPACT–III package (ADAMS Accession No. ML19135A512). The NWP's current exemption is set to expire on December 31, 2019.

On July 8, 2019, NWP submitted a request to the NRC for a 24-month extension of the current exemption (ADAMS Accession No. ML19190A289) because it had not yet shipped the two subject TRUPACT–III packages. The NRC is treating NWP's July 8, 2019 request to extend its exemption as a new exemption request—in accordance with 10 CFR 71.12—for the one-time transport of two SLB2 waste boxes, each in a Model No. TRUPACT–III package.

Specifically, NWP requests an exemption from the requirements in 10 CFR 71.61, ''Special requirements for Type B packages containing more than $10^5$ $A_2$,'' (*i.e.,* deep-water immersion test). NWP requests an exemption from the deep-water immersion test because the design of a TRUPACT–III package

containing more than $10^5A_2$ has not been demonstrated to meet the deep-water immersion requirements of 10 CFR 71.61, *i.e.,* the package's undamaged containment system has not been shown that it can withstand an external water pressure of 2 MegaPascal for a period of not less than 1 hour without collapse, buckling, or in-leakage of water.

Along with its exemption request, NWP also requests approval from the NRC for an increase in: (1) The $A_2$ limit from less than $10^5A_2$ to $2.1x10^5A_2$ and (2) the authorized decay heat limit from 80 watts (W) to 190 W. The $A_2$ and decay heat limits are established in the TRUPACT–III Certificate of Compliance No. 9305, Revision No. 10 (ADAMS Package Accession No. ML18171A176).

The TRUPACT–III is a shipping container used to transport transuranic (TRU) waste within an SLB2. The TRUPACT–III packages are front loaded in a horizontal position on custom-designed trailers for truck transport. The two TRUPACT–III packages will be transported by truck from the SRS in South Carolina, to the U.S. Department of Energy WIPP, Carlsbad, New Mexico.

The SLB2 waste boxes have not yet been loaded into the TRUPACT–III packages and are currently sitting on a storage pad at SRS. The contents of each SLB2 waste box is primarily one-half of a decommissioned tank used to process Plutonium-238.

## II. Environmental Assessment

*Description of the Proposed Action*

Under the requirements of 10 CFR 51.21 and 51.30(a), the NRC staff developed an EA (ADAMS Accession No. ML19317E461) to evaluate the proposed Federal action, which is for the NRC to grant an exemption to NWP from the deep-water immersion test requirements for the one-time transport of two TRUPACT–III packages from SRS to WIPP.

*Need for the Proposed Action*

The EA defines the NRC's proposed action (*i.e.,* to grant NWP's exemption request from 10 CFR 71.61) and the purpose and need for the proposed action. Evaluations of the potential environmental impacts of the proposed action and alternatives to the proposed action were considered, followed by the NRC's conclusion.

*Environmental Impacts of the Proposed Action*

The EA evaluates the potential environmental impacts of granting the exemption of the two subject TRUPACT–III packages from the deep-water immersion test. The only potential impacts from granting the exemption would be radiological impacts associated with an accident scenario. However, the analysis in the EA shows that there would be no radiological impacts as a result of exempting these two packages from the deep-water immersion test since the packages will not cross any body of water with a depth greater than 15 meters (m) (50 feet [ft]). Any nonradiological impacts would be no greater than those for the transport of any other TRUPACT–III package and would be bounded by previous environmental analyses (NUREG–0170, Vol. 1; ADAMS Accession No. ML12192A283). Therefore, the environmental impacts of transporting these two TRUPACT–III packages from SRS to WIPP are still bounded by those impacts documented in NUREG–0170.

*Environmental Impacts of the Alternatives to the Proposed Action*

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative); further segmenting the waste; using a different type of package; and storing the waste until the activity decays below $10^5A_2$. None of the alternatives is preferable to the proposed action because either the impacts are greater than the proposed action or they do not meet the purpose and need of the proposed action. Therefore, the proposed action is the preferred alternative.

*Agencies and Persons Consulted*

In accordance with its stated policy, on September 23, 2019, the staff consulted with the States of South Carolina and New Mexico regarding the environmental impact of the proposed action (ADAMS Accession Package Nos. ML19269E263, and ML19269E169, respectively). The NRC did not receive any comments on the draft EA (ADAMS Accession Nos. ML19304B327, and ML19310F330, respectively).

## III. Finding of No Significant Impact

The NRC staff has prepared an EA and FONSI in support of the proposed action. The EA is available at ADAMS Accession No. ML19317E461. The NRC staff has concluded that the proposed action, for the NRC to grant an exemption to NWP from the deep-water immersion test for the transport of two SLB2 waste boxes in Model No. TRUPACT–III packages from SRS to WIPP, will not significantly impact the quality of the human environment, and that the proposed action is the preferred alternative. The environmental impacts of the two packages are bounded by previous NRC environmental analysis since the packages will not cross bodies of water greater than 15 m (50 ft) in depth.

The NRC staff has determined that the exemption from the deep-water immersion test for the two subject packages would have no impact on historic and cultural resources or ecological resources and, therefore, no consultations are necessary under Section 106 of the National Historic Preservation Act and Section 7 of the Endangered Species Act, respectively.

The NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted.

Accordingly, the NRC has determined that a FONSI is appropriate.

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

For the Nuclear Regulatory Commission.

**Daniel I. Doyle,**

*Acting Chief, Storage and Transportation Licensing Branch Division of Fuel Management, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2019–25121 Filed 11–19–19; 8:45 am]

**BILLING CODE 7590–01–P**

## POSTAL REGULATORY COMMISSION

**[Docket Nos. MC2020–25 and CP2020–24; MC2020–26 and CP2020–25]**

## New Postal Products

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* November 21, 2019.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:**

### Table of Contents

II. Docketed Proceeding(s)

## I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

## II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2020–25 and CP2020–24; *Filing Title:* USPS Request to Add Priority Mail Express & Priority Mail Contract 104 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 13, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* November 21, 2019.

2. *Docket No(s).:* MC2020–26 and CP2020–25; *Filing Title:* USPS Request to Add Priority Mail Contract 560 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 13, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* November 21, 2019.

This Notice will be published in the **Federal Register**.

**Darcie S. Tokioka,**

*Acting Secretary.*

[FR Doc. 2019–25076 Filed 11–19–19; 8:45 am]

**BILLING CODE 7710–FW–P**

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–87501; File No. SR–ICEEU–2019–024]**

## Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the Business Continuity Procedures (the "Business Continuity Procedures")

November 12, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 28, 2019, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes described in Items I, II, and III below, which Items have been prepared primarily by ICE Clear Europe. ICE Clear Europe filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)[4] thereunder, such that the proposed rule change was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

### I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

ICE Clear Europe proposes to make certain amendments to its Business Continuity Procedures.[5]

### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe 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. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

*(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

(a) Purpose

ICE Clear Europe proposes to modify certain details of its Business Continuity Procedures. The amendments update remove reference to Atlanta and to provide further clarity to when the clearing house will inform Clearing Members of Business Continuity events.

(b) Statutory Basis

ICE Clear Europe believes that the changes described herein are consistent with the requirements of Section 17A of the Act[6] and the regulations thereunder applicable to it. Section 17A(b)(3)(F) of the Act[7] in particular requires, among other things, that the rules of the clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts and transactions, to assure the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible and the protection of investors, and, in general, protect investors and the public interest. The proposed amendments are designed to update details regarding contact information and notices relating to Business Continuity Events to ensure that Clearing Members are provided with clear and up to date information in the event of a Business Continuity Event. As a result, in ICE Clear Europe's view, the amendments are consistent

[5] Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Rules.

[6] 15 U.S.C. 78q–1.

[7] 15 U.S.C. 78q–1(b)(3)(F).

with the prompt and accurate clearance and settlement of transactions and the protection of investors and the public interest (and will not affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible).

*(B) Clearing Agency's Statement on Burden on Competition*

ICE Clear Europe does not believe the proposed rule changes would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. The proposed changes to the Business Continuity Procedures are intended to provide updates to contact details and similar information. The change will apply uniformly across all Clearing Members and market participants. ICE Clear Europe does not believe the amendments will adversely affect competition among Clearing Members, the cost of clearing, or the ability of market participants to clear contracts generally.

*(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments relating to the proposed rule changes have not been solicited or received. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

**III. Date of Effectiveness of the Proposed Rule Change**

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 l9(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[8]

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–ICEEU–2019–024 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–ICEEU–2019–024. 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 Section, 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 filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at *https://www.theice.com/clear-europe/regulation.*

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–ICEEU–2019–024 and should be submitted on or before December 11, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–24856 Filed 11–19–19; 8:45 am]

**BILLING CODE M**

[8] ICE Clear Europe has requested that the Commission waive the five-day pre-filing requirement, which the Commission has done. Moreover, for purposes only of waiving the five-day pre-filing requirement, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[9] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 33685; 812–14214]**

## T. Rowe Price Associates, Inc. and T. Rowe Price Equity Series, Inc.; Notice of Application

November 14, 2019.

**AGENCY:** Securities and Exchange Commission (''Commission'').

**ACTION:** Notice of an application for exemptive relief.

**SUMMARY OF APPLICATION:** Applicants request an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. If granted, the requested order would permit registered open-end investment companies that are exchange-traded funds (''ETFs'') and are actively managed to operate without being subject to a daily portfolio transparency condition.

**APPLICANTS:** T. Rowe Price Associates, Inc. (''T. Rowe'') and T. Rowe Price Equity Series, Inc. (the ''Corporation'').

**FILING DATES:** The application was filed on September 23, 2013, and amended on March 14, 2014, February 23, 2018, June 18, 2018, April 30, 2019, June 13, 2019, July 26, 2019, and October 17, 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 December 9, 2019, and should be accompanied by proof of service on Applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the

nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants: T. Rowe Price Associates, Inc. and T. Rowe Price Equity Series, Inc., 100 East Pratt Street, Baltimore, Maryland 21202.

**FOR FURTHER INFORMATION CONTACT:** Bradley Gude, Senior Counsel; Andrea Ottomanelli Magovern, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

## I. Introduction

1. Applicants seek to introduce a novel type of actively-managed ETF that would not be required to disclose its portfolio holdings on a daily basis (each, a ''Fund''). Due to their characteristics, ETFs (including those proposed by Applicants) are only permitted to operate in reliance on Commission exemptive relief from certain provisions of the Act and rules thereunder.[1] Accordingly, Applicants seek an order: Under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 thereunder; under sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and 17(a)(2) of the Act; and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and (B) of the Act. The requested order would permit: (a) The Funds to issue shares (''Shares'') redeemable in large aggregations only (''creation units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of creation units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (''Investing Funds'') to acquire Shares of the Funds.

2. Section 6(c) allows the Commission to exempt any person, security, or transaction, or any class thereof, only ''if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of [the Act].'' As discussed below, the Commission believes that the Funds meet the standard for exemptive relief under section 6(c) of the Act.[2] Accordingly, the Commission intends to grant the requested relief.

## II. Background

### *A. Open-End Investment Companies and Net Asset Value*

3. The Act defines an investment company as an ''issuer'' of ''any security'' which ''is or holds itself out as being engaged primarily . . . in the business of investing . . . in securities.'' [3] Shares in an investment company represent proportionate interests in its investment portfolio, and their value fluctuates in relation to the changes in the value of that portfolio.

4. The most common form of investment company, the ''open-end'' investment company or mutual fund, is required by law to redeem its securities on demand at a price approximating the securities' proportionate share of the fund's NAV at the time of redemption.[4] These funds also continuously issue and sell new shares, thereby replenishing their investment capital.

5. Because open-end investment companies are required by law to redeem their shares based on investors' demands, shares of the funds have historically not traded on exchanges or in other secondary markets.[5]

### *B. Exemptions Under the Act for Actively Managed ETFs*

6. ETFs, including those proposed by Applicants, are a type of open-end fund. But unlike traditional open-end funds, ETFs are made available to investors primarily through secondary market transactions on exchanges.

7. In order for this to take place, ETFs require various exemptions from the provisions of the Act and the rules thereunder. Critically, in granting such exemptions to date, the Commission has required that a mechanism exist to ensure that ETF shares would trade at a price that is at or close to the NAV per share of the ETF.[6]

8. Such a mechanism is essential for ETFs to operate because ETFs do not sell or redeem their individual shares at NAV per share as required by the Act. Instead, large broker-dealers that have contractual arrangements with an ETF (each, an ''Authorized Participant'') purchase and redeem ETF shares directly from the ETF, but only in large blocks called ''creation units.'' Traditionally, an Authorized Participant that purchases a creation unit of ETF shares first deposits with the ETF a ''basket'' of securities and other assets (*e.g.,* cash) identified by the ETF that day, and then receives the creation unit of ETF shares in return for those assets. The basket is generally representative of the ETF's portfolio and is equal in value to the aggregate NAV of ETF shares in the creation unit. After purchasing a creation unit, the Authorized Participant may sell the component ETF shares in secondary market transactions. Investors then purchase individual shares in the secondary market. The redemption process is the reverse of the purchase process: The Authorized Participant acquires a creation unit of ETF shares and redeems it for a basket of securities and other assets.

9. The combination of the creation and redemption process with the secondary market trading in ETF shares provides arbitrage opportunities that are designed to help keep the market price of ETF shares at or close to the NAV per share of the ETF.[7] For example, if ETF shares begin trading on national securities exchanges at a ''discount'' (a price below the estimated intraday NAV per share of the ETF), an Authorized Participant can purchase ETF shares in

[1] The Commission first granted exemptive relief to operate ETFs in the early 1990s when the first index-based ETFs were developed. *See* SPDR Trust Series I, Investment Company Act Release Nos. 18959 (Sept. 17, 1992) (notice) and 19055 (Oct. 26, 1992) (order). *See generally* Exchange Traded Funds, Investment Company Act Release No. 33646 (Sept. 25, 2019) (''ETF Rule Adopting Release''), at section I. The Commission has also granted ETFs exemptive relief from Sections 12(d)(1)(A) and (B) of the Act. *See generally* Fund of Funds Arrangements, Investment Company Act Release No. 33329 (Dec. 19, 2018).

[2] *See infra* section IV for a discussion of all the relief requested by Applicants, including relief under sections 17(b) and 12(d)(1)(J) of the Act.

[3] 15 U.S.C. 80a–3(a); 80a–3(a)(1).

[4] *See* section 22(d) and rule 22c–1; *see also infra* section IV.A (discussing section 22(d) and rule 22c–1).

[5] This stems from section 22(d) of the Act, which in effect fixes the prices at which redeemable securities, including open-end shares, are sold. The result is a system that precludes dealers from making a secondary market in open-end shares.

[6] This has been a required representation in all ETF orders since the Commission issued the first order. *See supra* note 1.

[7] *See* Investment Company Institute, *2019 Investment Company Fact Book* (2019), at 88–89; ETF Rule Adopting Release, *supra* note 1, at note 31 and accompanying text.

secondary market transactions and, after accumulating enough shares to comprise a creation unit, redeem them from the ETF in exchange for the more valuable securities and other assets in the ETF's redemption basket. In addition to purchasing ETF shares, Authorized Participants also are likely to hedge their intraday risk. Thus, for example, when ETF shares are trading at a discount to the estimated intraday NAV per share of the ETF, an Authorized Participant may also simultaneously short the securities in the ETF's redemption basket. At the end of the day, the Authorized Participant will return the creation unit of ETF shares to the ETF in exchange for the ETF's basket assets, and use such assets to cover its short positions. Those purchases reduce the supply of ETF shares in the market, and thus tend to drive up the market price of the shares to a level closer to the NAV per share of the ETF.[8]

10. Conversely, if the market price for ETF shares reflects a ''premium'' (a price above the estimated intraday NAV per share of the ETF), an Authorized Participant can deposit a basket of securities and other assets in exchange for the more valuable creation unit of ETF shares, and then sell the individual shares in the market to realize its profit.[9] An Authorized Participant also is likely to hedge its intraday risk when ETF shares are trading at a premium. Thus, for example, when the shares of an ETF are trading at a premium, an Authorized Participant may buy the securities in the ETF's purchase basket in the secondary market and sell short the ETF shares. At the end of the day, the Authorized Participant will deposit the basket assets in exchange for a creation unit of ETF shares, which it will then use to cover its short positions. The Authorized Participant will receive a profit from having paid less for the ETF shares than it received for the assets in the purchase basket. These transactions would increase the supply of ETF shares in the secondary market, and thus tend to drive down the price of ETF shares to a level closer to the NAV per share of the ETF.

11. Market participants can also engage in arbitrage activity without using the creation or redemption processes described above. For example, if a market participant believes that an ETF is overvalued relative to its underlying or reference assets (*i.e.* trading at a premium), the market participant may sell ETF shares short and buy the underlying or reference assets, wait for the trading prices to move toward parity, and then close out the positions in both the ETF shares and the underlying or reference assets to realize a profit from the relative movement of their trading prices. Similarly, a market participant could buy ETF shares and sell the underlying or reference assets short in an attempt to profit when an ETF's shares are trading at a discount to the ETF's underlying or reference assets. As discussed above, this type of trading of an ETF's shares and the ETF's underlying or reference assets may bring the prices of the ETF's shares and its portfolio assets closer together through market pressure.

12. In assessing whether to grant exemptive relief to actively managed ETFs in the past, the Commission has required a mechanism that would keep the market prices of ETF shares at or close to the NAV per share of the ETF.[10] This close tie between market price and NAV per share of the ETF is the foundation for why the prices at which retail investors buy and sell ETF shares are similar to the prices at which Authorized Participants are able to buy and redeem shares directly from the ETF at NAV. In granting relief from section 22(d) of the Act and rule 22c–1 under the Act, the Commission relies on this close tie between what retail investors pay and what Authorized Participants pay to make the finding that the ETF's shareholders are being treated equitably when buying and selling shares.[11]

## III. The Application

### *A. The Applicants*

13. The Corporation is a corporation organized under the laws of the State of Maryland and is registered with the Commission as an open-end management investment company. T. Rowe is a Maryland corporation registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''), would serve as the investment adviser to the initial Fund. The Corporation will enter into a distribution agreement with one or more distributors. Any distributor will be a registered broker-dealer under the Securities Exchange Act of 1934, as amended (''Exchange Act''), and will act as distributor and principal underwriter of the Funds.

### *B. Applicants' Proposal*

14. Applicants seek exemptive relief under section 6(c) to allow them to introduce actively-managed Funds that would not disclose their portfolio holdings on a daily basis.[12] Applicants maintain that operating the Funds as fully-transparent actively-managed ETFs would make the Funds susceptible to ''front running'' and ''free riding'' by other investors and/or managers, which can harm, and result in substantial costs to, the Funds and their shareholders.[13]

15. Applicants believe that the Funds would allow investors to access active investment strategies offered by certain investment advisers that are currently only available via mutual funds, while also taking advantage of the traditional benefits of ETFs (*e.g.,* lower fund costs, tax efficiencies and intraday liquidity).

16. Applicants state that the relief in the application is similar to the relief granted in exemptive orders issued to existing actively managed ETFs, except for certain differences permitting the Funds to operate on a non-transparent

[8] The Authorized Participant's purchase of the ETF shares in the secondary market, combined with the sale of the redemption basket securities, may also create upward pressure on the price of ETF shares and/or downward pressure on the price of redemption basket securities, driving the market price of ETF shares and the value of the ETF's portfolio holdings closer together.

[9] The Authorized Participant's purchase of the basket assets, combined with the sale of ETF shares, may also create downward pressure on the price of ETF shares, upward pressure on the price of purchase basket securities, or both, bringing the market price of ETF shares and the value of the ETF's portfolio holdings closer together.

[10] Until recently, the Commission only approved a mechanism dependent on daily portfolio transparency. *See generally* ETF Rule Adopting Release, *supra* note 1, at section II.C.4. Last May, the Commission issued an order granting relief to actively managed ETFs that, like the Funds, do not disclose their complete portfolio holdings on a daily basis. *See* Precidian ETFs Trust, *et al.,* Investment Company Act Release No. 33440 (Apr. 8, 2019) (the ''Precidian Notice'') and 33477 (May 20, 2019) (the ''Precidian Order''). The Applicants' proposed arbitrage mechanism differs from that in the Precidian Order.

[11] *See supra* note 4 and accompanying text.

[12] Applicants request that the order apply to the series of the Corporation identified and described in the application as well as to additional series of the Corporation and any other open-end management investment company or series thereof that seek to rely on the relief requested in the application, each of which will operate as an actively-managed ETF. Any Fund will be advised by T. Rowe or an investment adviser controlling, controlled by, or under common control with T. Rowe (each such entity and any successor thereto is included in the term ''Adviser'') and comply with the terms and conditions of the application. The Adviser may retain one or more sub-advisers (each a ''Sub-Adviser'') for the Funds. Any Sub-Adviser will be registered under the Advisers Act. For purposes of the requested order, the term ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[13] *See* application at 4–5.

basis.[14] These material differences are discussed below.

a. *Proxy Portfolio.* Each day a Fund would publish a basket of securities and cash that, while different from the Fund's portfolio, is designed to closely track its daily performance (the ''Proxy Portfolio'').[15] In addition, every day the Fund would disclose the percentage weight overlap between the holdings of the prior business day's Proxy Portfolio compared to the holdings of the Fund that formed the basis for the Fund's calculation of NAV at the end of the prior business day (the ''Portfolio Overlap'').[16] Such number would help market participants evaluate the risk that the performance of the Proxy Portfolio may deviate from the performance of the portfolio holdings of a Fund.

Applicants state that the Proxy Portfolio would serve as a pricing and hedging tool for market participants to identify and take advantage of arbitrage opportunities. Because the Proxy Portfolio would be designed to closely track the daily performance of the Fund's holdings, the Proxy Portfolio would serve to estimate the value of those holdings. For the same reason, trading the Proxy Portfolio would allow market participants to get exposure to the performance of the Fund's holdings, so that a Fund's Proxy Portfolio could serve to hedge a position in the Fund's Shares. Further, the Proxy Portfolio would serve as the creation/redemption basket when Authorized Participants exchange creation units with the Fund.

Also in order to facilitate arbitrage, each Fund's portfolio and Proxy Portfolio will only include certain securities that trade on an exchange contemporaneously with the Fund's Shares.[17] Because the securities would be exchange traded, market participants would be able to accurately price and readily trade the securities in the Proxy Portfolio for purposes of assessing the intraday value of the Fund's portfolio holdings and to hedge their positions in the Fund's shares.[18]

b. *Arbitrage Transactions in the Funds.* Applicants state that, given the correlation between a Fund's Proxy Portfolio and its portfolio holdings, the Proxy Portfolio would serve as a pricing signal to identify arbitrage opportunities when its value and the secondary market price of the Shares diverge. If Shares began trading at a discount to the Proxy Portfolio, an authorized participant could purchase the Shares in secondary market transactions and, after accumulating enough Shares to comprise a creation unit, redeem them from the Fund in exchange for a redemption basket reflecting the NAV per share of the Fund's portfolio holdings.[19] The purchases of Shares would reduce the supply of Shares in the market, and thus tend to drive up the Shares' market price closer to the Fund's NAV.[20] Alternatively, if Shares are trading at a premium, the transactions in the arbitrage process are reversed.

Applicants further state that, like with traditional ETFs, market participants also can engage in arbitrage without using the creation or redemption processes.[21] For example, if a Fund is trading at a premium to the Proxy Portfolio, the market participant may sell Shares short and take a long position in the Proxy Portfolio securities, wait for the trading prices to move toward parity, and then close out the positions in both the Shares and the securities, to realize a profit from the relative movement of their trading prices. Similarly, a market participant could buy Shares and take a short position in the Proxy Portfolio securities in an attempt to profit when Shares are trading at a discount to the Proxy Portfolio.

c. *Protective conditions.* Applicants have agreed to comply with certain conditions in addition to those included in prior ETF exemptive orders.[22] First, the Funds will provide certain public disclosures to explain to investors how they differ from traditional ETFs and inform investors that the Funds' bid-ask spreads and premiums/discounts may be larger than those for traditional ETFs due to the lack of transparency, thus making trading in the Funds' Shares more expensive. The Funds will also disclose that market participants may attempt to reverse engineer a Fund's trading strategy, which, if successful, could increase opportunities for trading practices that may disadvantage the Fund and its shareholders.[23] Each Fund will include a legend (the ''Legend'') in a prominent location on the outside cover page of its prospectus, as well as on its website and any marketing materials, that will highlight for investors the differences between the Funds and fully transparent actively managed ETFs and the above costs and risk.[24] Unless otherwise requested by the staff of the Commission, the Legend will read as follows:

**This ETF Is Different From Traditional ETFs**

Traditional ETFs tell the public what assets they hold each day. This ETF will not. This may create additional risks for your investment. For example:

- You may have to pay more money to trade the ETF's shares. This ETF will provide less information to traders, who tend to charge more for trades when they have less information.
- The price you pay to buy ETF shares on an exchange may not match the value of the ETF's portfolio. The same is true when you sell shares. These price differences may be greater for this ETF compared to other ETFs because it provides less information to traders.

[14] *Cf.* Precidian Order *supra* note 10.

[15] The Funds would, at a minimum, provide the quarterly portfolio disclosures required for mutual funds. *See* rule 30b1–9 under the Act and Form N–PORT.

[16] A Fund's Proxy Portfolio will have a minimum weightings overlap of 80% with the Fund's portfolio at the beginning of each trading day.

[17] Each Fund may invest only in ETFs, Exchange-traded notes, Exchange-traded common stocks, common stocks listed on a foreign exchange that trade on such exchange synchronously with the Shares, Exchange-traded preferred stocks, Exchange-traded American depositary receipts, Exchange-traded real estate investment trusts, Exchange-traded commodity pools, Exchange-traded metals trusts, Exchange-traded currency trusts, and exchange-traded futures that trade contemporaneously with the Shares, as well as cash and cash equivalents. For purposes of the application, exchange-traded futures are U.S. listed futures contracts where the futures contract's reference asset is an asset that the Fund could invest in directly, or in the case of an index future, is based on an index of a type of asset that the Fund could invest in directly. All futures contracts that a Fund may invest in will be traded on a U.S. futures exchange. For these purposes, an ''Exchange'' is a national securities exchange as defined in section 2(a)(26) of the Act. No Fund will invest in a ''penny stock'' as defined in Exchange Act Rule 3a51–1, borrow for investment purposes, hold short positions, or purchase any security that is illiquid at the time of purchase. The Proxy Portfolio will be subject to the same limitations.

[18] Applicants also expect to disseminate an intraday estimate of each Fund's NAV (''INAV'') every 15 seconds. Applicants maintain that their proposed INAV does not raise the concerns that the Commission has raised about the use of an indicative intraday NAV, in particular because the Funds would only invest in exchange-traded securities that can be more accurately priced for purposes of the IIV calculation, and because the INAV would only serve as a secondary pricing signal. *See* application at 9–10; *see also* Precidian ETFs Trust, et al., Investment Company Act Rel. No. 31300 (Oct. 21, 2014) at paragraphs 22–31.

[19] In addition to purchasing Shares, an authorized participant also would likely hedge its intraday risk by shorting the securities in the Proxy Portfolio (the same as in the redemption basket) in an amount corresponding to its long position in Shares. After the authorized participant returns a creation unit to the Fund in exchange for a redemption basket, the authorized participant can use the basket securities to cover its short positions. *Cf. supra* note 8.

[20] The purchase of the Shares in the secondary market, combined with the sale of the redemption basket securities, may also drive the market price of Shares and the value of the Fund's portfolio holdings closer together. *See supra* note 8.

[21] *See supra* paragraph 11.

[22] These are substantially the same as conditions included in the Precidian Order. See Precidian Notice *supra* note 10, at paragraph 17(d).

[23] *See* application at 18.

[24] *See* application at 17–18; 31.

• These additional risks may be even greater in bad or uncertain market conditions.

• The ETF will publish on its website each day a ''Proxy Portfolio'' designed to help trading in shares of the ETF. While the Proxy Portfolio includes some of the ETF's holdings, it is not the ETF's actual portfolio.

The differences between this ETF and other ETFs may also have advantages. By keeping certain information about the ETF secret, this ETF may face less risk that other traders can predict or copy its investment strategy. This may improve the ETF's performance. If other traders are able to copy or predict the ETF's investment strategy, however, this may hurt the ETF's performance.

For additional information regarding the unique attributes and risks of the ETF, see section [ ] below.

17. Second, Applicants will comply with the requirements of Regulation Fair Disclosure (''Reg. FD'') as if it applied to them, thus prohibiting the Fund's selective disclosure of any material nonpublic information.[25] Because the Funds will not publicly disclose their portfolio holdings daily, the selective disclosure of material nonpublic information, including information other than portfolio information, would be more likely to provide an unfair advantage to the recipient than in other ETFs.

18. Third, the Funds and their Adviser will take remedial actions as necessary if the Funds do not function as anticipated. For the first three years after launch, a Fund will establish certain thresholds for its level of Tracking Error,[26] premiums/discounts, and spreads, so that, upon the Fund's crossing a threshold, the Adviser will promptly call a meeting of the Fund's board of directors, and will present the board with recommendations for appropriate remedial measures.[27] The board would then consider the continuing viability of the Fund, whether shareholders are being harmed, and what, if any, action would be appropriate.[28] In addition, Applicants have agreed to provide to Commission staff on a periodic basis certain metrics and other such information as the staff may request in order to facilitate the staff's ongoing monitoring of the Funds.[29]

## IV. Requested Exemptive Relief

19. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

20. Applicants' request for relief is novel only under section 22(d) and rule 22c–1 due to the proposed alternative arbitrage mechanism. In all other respects, Applicants are seeking relief that the Commission has previously granted to existing ETFs. As discussed above, the requested relief would be available to any open-end investment company that is an actively-managed ETF operating in compliance with the terms and conditions of the order and that is advised by an Adviser.[30]

21. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general purposes of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

### *A. Novel Relief Under Section 22(d) and Rule 22c–1*

22. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through a principal underwriter other than at a current public offering price described in the fund's prospectus. Rule 22c–1 under the Act requires open-end funds, their principal underwriters, and dealers in fund shares (and certain others) to sell and redeem fund shares at a price based on the current NAV next computed after receipt of an order to buy or redeem.

23. Together, section 22(d) and rule 22c–1 are designed to: (i) Prevent dilution caused by certain riskless trading practices of principal underwriters and dealers; (ii) prevent unjust discrimination or preferential treatment among investors purchasing and redeeming fund shares; and (iii)

[25] *See* 17 CFR 243. ETFs are not otherwise subject to Reg. FD. The federal securities laws and an investment adviser's fiduciary duties permit the disclosure of an ETF's nonpublic portfolio information to selected third parties only when the ETF has legitimate business purposes for doing so and the recipients are subject to a duty of confidentiality, including a duty not to trade on the nonpublic information. *See* Exchange Traded Funds, Investment Company Act Release No. 33140 (Jun. 28, 2018), at text accompanying notes 225–226 (proposing rule 6c–11 and discussing Reg. FD). Reg. FD's Rule 100(b)(2)(iii) exempts from Reg. FD certain communications made in connection with a securities offering registered under the Securities Act. Applicants would not rely on this exemption; as the Funds will be continuously offered, this exemption would likely make the condition requiring Applicants to comply with Reg. FD meaningless.

[26] ''Tracking Error'' is the standard deviation over the past three months of the daily proxy spread (*i.e.,* the difference, in percentage terms, between the Tracking Basket's per share NAV and that of the Fund at the end of the trading day).

[27] *See* application at 13. For the first three years after launch of a Fund, its board or committee would promptly meet (1) if the Tracking Error exceeds 1%; or (2) if, for 30 or more days in any quarter or 15 days in a row (a) the absolute difference between either the market closing price or Bid/Ask Price, on one hand, and NAV, on the other, exceeds no more than 2%, or (b) the bid/ask spread exceeds no more than 2%. A Fund may adopt additional or lower (*i.e.,* less than the 1% and 2% upper limits) thresholds to the extent deemed appropriate and approved by the Fund's board or a designated committee thereof.

[28] For at least three years after launch of each Fund, the Board will also undertake these considerations on an annual basis, regardless of whether the Fund's preset thresholds have been crossed. Potential actions may include, but are not limited to, changing lead market makers, listing the Fund on a different exchange, changing the size of creation units, modifications to the Proxy Portfolio process, changing the Fund's investment objective or strategy, and liquidating the Fund. *See* application at 13.

[29] *See* application at 31, condition 7.

[30] Applicants request that the terms and conditions of the requested order apply to other registered open-end management investment companies or series thereof not advised by the Adviser (''Authorized Funds''). Applicants anticipate that the Adviser or an affiliate thereof may in the future enter into agreements concerning Applicant's intellectual property rights in the Funds with the registered investment advisers advising the Authorized Funds (together with the Authorized Funds, ''Future Applicants''). Applicants further expect that Future Applicants would apply for a separate exemptive order that incorporates by reference all the terms and conditions of the requested order and any amendments thereto. *See* application at 2. *See also* Precidian Notice *supra* note 10, at note 41 and in re Eaton Vance Management, et al., File No. 812–14139, Fourth Amendment, filed Sept. 25, 2014; Investment Company Act Rel. No. 31333 (Nov. 6, 2014) (notice), Investment Company Act Rel. No. 31361 (Dec. 2, 2014) (order). *See also, e.g.,* in re American Beacon Nextshares Trust, et al., File No. 812–14417, First Amendment, filed Feb. 23, 2015; Investment Company Act Rel. No. 31498 (Mar. 6, 2015) (notice); Investment Company Act Rel. No. 31542 (Apr. 1, 2015) (order).

preserve an orderly distribution of investment company shares.[31]

24. Applicants believe that none of these concerns will be raised by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that secondary market trading in Shares does not involve the Funds as parties and cannot result in dilution of an investment in Shares, and to the extent different prices for Shares exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, Applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, Applicants state that the proposed distribution system will be orderly because anyone will be able to sell or acquire Shares on an exchange and arbitrage activity should ensure that secondary market transactions occur at prices at or close to the Fund's NAV.

25. In considering relief from section 22(d) and rule 22c–1 for ETFs, the Commission has focused on whether the ETFs' arbitrage mechanism addresses the concerns underlying those provisions. The Commission believes that the alternative arbitrage mechanism proposed by Applicants can work in an efficient manner to maintain a Fund's secondary market prices close to its NAV.[32] The Commission recognizes, however, that the lack of full transparency may cause the Funds to trade with spreads and premiums/discounts that are larger than those of comparable, fully transparent ETFs.[33] Nonetheless, as long as arbitrage continues to keep the Fund's secondary market price and NAV close, and does so efficiently so that spreads remain narrow, the Commission believes that investors would benefit from the opportunity to invest in active strategies through a vehicle that offers the traditional benefits of ETFs.[34]

*B. Other Relief*

26. The additional exemptive relief Applicants seek is relief routinely granted to ETFs, and does not raise novel issues on account of the lack of daily portfolio transparency.

27. *Sections 5(a)(1) and 2(a)(32) of the Act.* First, because the Shares will not be individually redeemable, Applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue Shares that are redeemable in creation units only.

28. *Section 22(e) of the Act.* Second, Applicants seek relief from section 22(e) to permit Funds to satisfy redemption requests more than seven days from the tender of Shares for redemption with respect to foreign securities where the settlement cycle, coupled with local holiday schedules, would not permit a Fund to satisfy redemption requests within the seven days required under section 22(e) of the Act. A Fund would deliver the foreign securities as soon as practicable, but in no event later than 15 days after the tender of Shares.

29. *Sections 17(a)(1) and (2) of the Act.* Second, Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are affiliated persons, or second-tier affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of creation units and the redemption procedures for in-kind redemptions of creation units will be the same for all purchases and redemptions and basket securities will be valued in the same manner as those portfolio securities currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its Shares to and redeem its Shares from an Investing Fund, and to engage in the accompanying in-kind transactions with the Investing Fund.[35] The purchase of creation units by an Investing Fund directly from a Fund will be accomplished in accordance with the policies of the Investing Fund and will be based on the NAVs of the Funds.

30. *Section 12(d)(1) of the Act.* Third, Applicants request an exemption to permit Investing Funds to acquire Fund Shares beyond the limits of section 12(d)(1)(A) of the Act and permit the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell Fund Shares to Investing Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

*C. Consideration of Possible Concerns Relating to the Requested Relief*

31. As part of our review, we have considered possible concerns regarding the requested relief, including, among others, concerns related to the proposed arbitrage mechanism, the use of Proxy Portfolios, and reverse engineering, as discussed below. We believe, however, that the Applicants' proposed terms and conditions sufficiently address such concerns.

32. *Proposed Arbitrage Mechanism.* One possible concern is that the proposed arbitrage mechanism may not facilitate effective arbitrage, which could result in significant deviations between the secondary market price and NAV per share of a Fund. We believe that the proposed arbitrage mechanism can work in an efficient manner to maintain secondary market prices of Shares close to their NAV while providing investors with the opportunity to invest in active strategies through a vehicle that offers the traditional benefits of ETFs.[36] In addition, to the extent that the Funds do not function as anticipated, Applicants have undertaken to take remedial actions as appropriate.[37]

33. *Use of Proxy Portfolios.* Applicants have also addressed possible implications of using a Proxy Portfolio as an arbitrage mechanism. First, Applicants note that a Fund's Proxy Portfolio would not misrepresent the Fund's holdings or cause investor

[31] *See* ETF Rule Adopting Release, *supra* note 1, at text accompanying note 116.

[32] *See supra* paragraph 16(b).

[33] The performance of a Fund's Proxy Portfolio and portfolio holdings may deviate to some extent, which would make market participants' estimates of the profitability of their arbitrage transactions less precise. To account for this possibility, market participants would likely require wider spreads to trade Shares.

[34] Investors will have the information necessary to compare the costs associated with investing in the Funds with the costs of investing in other ETFs and mutual funds. *See* Item 3 of Form N–1A; condition 2. *Cf.* ETF Rule Adopting Release, *supra* note 1, at text following note 119 (noting that for fully transparent ETFs, ''under certain circumstances, including during periods of market stress, the arbitrage mechanism may work less effectively for a period of time,'' but that ''on balance, . . . investors are more likely to weigh the potential benefits of ETFs (*e.g.,* low cost and intraday trading) against any potential for market price deviations when deciding whether to utilize ETFs.'' *Cf.* Precidian Notice *supra* note 10, at 19–20.

[35] The requested relief would apply to direct sales of shares in creation units by a Fund to an Investing Fund and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or a second-tier affiliate, of an Investing Fund because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Investing Fund.

[36] *See supra* paragraphs 15 and 16.

[37] *See supra* paragraph 18.

confusion.[38] To that effect, the Funds would provide disclosures in their prospectus, marketing materials and website clearly indicating the Proxy Portfolio's purpose and that it is not the Fund's portfolio holdings.[39] Second, Applicants state that they would design their Proxy Portfolio so that arbitrageurs' trading will not have a significant market impact on the securities in the Proxy Portfolio, in particular those that a Fund does not hold for investment purposes.[40]

34. *Reverse Engineering.* A third possible concern is that other market participants may be able to reverse engineer current activity in a Fund's holdings and use such information to the disadvantage of the Fund, Authorized Participants and shareholders. Applicants have represented that they will operate the Funds in a manner designed to minimize the risk of reverse engineering and we anticipate that the Funds will have the ability to minimize such risk.[41] Indeed, we note that the Applicants have a significant incentive to minimize this risk, considering that the purpose of their proposed arbitrage mechanism is to facilitate the operation of ETFs that limit the ETFs' susceptibility to predatory trading practices, like ''front running'' and ''free riding.'' [42]

## V. Applicants' Conditions [43]

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

*A. ETF Relief*

1. As long as a Fund operates in reliance on the requested order, the Shares of the Fund will be listed on an exchange.

2. The website for the Funds, which is and will be publicly accessible at no charge, will contain, on a per Share basis, for each Fund the prior business day's NAV and market closing price or Bid/Ask Price of the Shares, a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV, and any other information regarding premiums and discounts as may be required for other ETFs under rule 6c–11 under the Act, as amended. The website will also disclose any information regarding the bid-ask spread for each Fund as may be required for other ETFs under rule 6c–11 under the Act, as amended.

3. Each Fund will include the Legend in a prominent location on the outside cover page of its prospectus, as well as on its website and any marketing materials.

4. On each business day, before the commencement of trading of Shares, each Fund will publish on its website the Proxy Portfolio and the Portfolio Overlap for that day.

5. No Adviser or Sub-Adviser, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any deposit instrument for a Fund through a transaction in which the Fund could not engage directly.

6. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of actively managed ETFs that disclose a proxy portfolio on each business day, without fully disclosing the ETF's entire portfolio at the same time.

7. Each Fund will provide the Commission staff with periodic reports (for which confidential treatment may be requested) containing such information as the Commission staff may request.

8. Each Fund and each person acting on behalf of a Fund will comply with and agree to be subject to the requirements of Regulation Fair Disclosure as if it applied to them (except that the exemptions provided in Rule 100(b)(2)(iii) therein shall not apply).

9. Each Fund will maintain and preserve, for a period of not less than five years, in an easily accessible place, (i) all written agreements (or copies thereof) between an Authorized Participant and the Fund or one of its service providers that allows the Authorized Participant to place orders for the purchase or redemption of creation units; (ii) a copy of the Proxy Portfolio published on the Fund's website for each business day; and (iii) a list of all creation or redemption baskets exchanged with an Authorized Participant where cash was included in the basket *in lieu* of some or all of the Proxy Portfolio securities (except for cash included because the securities are not eligible for trading by the Authorized Participant or the investor on whose behalf the Authorized Participant is acting), the amount of any such cash *in lieu* and the identity of the Authorized Participant conducting the transaction.

*B. Section 12(d)(1) Relief*

10. The members of the Investing Fund's Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of the Investing Fund's Sub-Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Investing Fund's Advisory Group or the Investing Fund's Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Investing Fund's Sub-Advisory Group with respect to a Fund for which the Investing Fund Sub-Adviser or a person controlling, controlled by or under common control with the Investing Fund Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

11. No Investing Fund or Investing Fund Affiliate will cause any existing or potential investment by the Investing Fund in a Fund to influence the terms of any services or transactions between the Investing Fund or an Investing Fund Affiliate and the Fund or a Fund Affiliate.

12. The board of directors or trustees of an Investing Management Company, including a majority of the independent directors or trustees, will adopt procedures reasonably designed to ensure that the Investing Fund Adviser and any Investing Fund Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing

[38] *See* application at 11.

[39] *See* application at *Id.* In addition, every day the Funds would disseminate the Portfolio Overlap, which would inform market participants as to the degree to which the Proxy Portfolio and the Fund's portfolio actually differ. *See* application at *Id.*

[40] Specifically, the Funds expect to include in the Proxy Portfolio only assets that are liquid and have a high trading volume. *See* application at 11. Further, Applicants note that their proposed use of a Proxy Portfolio is not novel in this respect. Currently, arbitrageurs for fully-transparent ETFs may use securities that are not in the ETFs' portfolio to hedge their positions in the ETFs' shares. *See* application at *Id.*

[41] Our Division of Economic Research and Analysis (''DERA'') considered whether the current activity in a Fund's holdings could be reverse engineered and concluded that the answer depends on the specifics of each Fund, including the size of the Fund's universe of potential portfolio selections, the mechanics of how the Fund's Proxy Portfolio is constructed in relationship to the Fund's portfolio holdings, the type of information disclosed about the Fund's portfolio holdings, and the degree of overlap between the Fund's Proxy Portfolio and its portfolio holdings. The Funds would disclose this risk to investors. *See* application at 12 and 18.

[42] *See* application at 12.

[43] Capitalized terms not otherwise defined herein shall have the same meaning as in the application.

Management Company or an Investing Fund Affiliate from a Fund or a Fund Affiliate in connection with any services or transactions.

13. Once an investment by an Investing Fund in the Shares of a Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, the Board of a Fund, including a majority of the independent directors or trustees, will determine that any consideration paid by the Fund to the Investing Fund or an Investing Fund Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

14. The Investing Fund Adviser, or Trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Investing Fund in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Investing Fund Adviser, or Trustee or Sponsor, or an affiliated person of the Investing Fund Adviser, or Trustee or Sponsor, other than any advisory fees paid to the Investing Fund Adviser, or Trustee or Sponsor, or its affiliated person by the Fund, in connection with the investment by the Investing Fund in the Fund. Any Investing Fund Sub-Adviser will waive fees otherwise payable to the Investing Fund Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Investing Fund Sub-Adviser, or an affiliated person of the Investing Fund Sub-Adviser, other than any advisory fees paid to the Investing Fund Sub-Adviser or its affiliated person by the Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Investing Fund Sub-Adviser. In the event that the Investing Fund Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

15. No Investing Fund or Investing Fund Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an Affiliated Underwriting.

16. The Board of a Fund, including a majority of the independent directors or trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Investing Fund in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

17. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

18. Before investing in a Fund in excess of the limits in section 12(d)(1)(A), an Investing Fund will execute a FOF Participation Agreement with the Fund stating that their respective boards of directors or trustees and their investment advisers, or Trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), an Investing Fund will notify the Fund of the investment. At such time, the Investing Fund will also transmit to the Fund a list of the names of each Investing Fund Affiliate and Underwriting Affiliate. The Investing Fund will notify the Fund of any changes to the list as soon as reasonably practicable after a change occurs. The Fund and the Investing Fund will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

19. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company, including a majority of the independent directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Investing Management Company.

20. Any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in FINRA Rule 2341.

21. No Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

By the Commission,

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–25069 Filed 11–19–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

*Extension:*
Rule 602, SEC File No. 270–404, OMB Control No. 3235–0461

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 602 of Regulation NMS (17 CFR 240.602), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 602 of Regulation NMS, Dissemination of Quotations in NMS securities, contains two related collections. The first collection of information is found in Rule 602(a).[1] This third-party disclosure requirement obligates each national securities exchange and national securities association to make available to quotation vendors for dissemination to the public the best bid, best offer, and aggregate quotation size for each ''subject security,'' as defined under the Rule. The second collection of information is found in Rule 602(b).[2] This disclosure requirement obligates any exchange member and over-the-counter (''OTC'') market maker that is a ''responsible broker or dealer,'' as defined under the Rule, to communicate to an exchange or association their best bids, best offers, and quotation sizes for subject securities.[3]

It is anticipated that twenty-three respondents, consisting of twenty-two national securities exchanges and one national securities association, will collectively respond approximately 5,780,026,336,314 times per year pursuant to Rule 602(a) at 18.22 microseconds per response, resulting in a total annual burden of approximately 30,590 hours. It is anticipated that no respondents will have a reporting burden pursuant to Rule 602(b).[4]

Thus, the aggregate third-party disclosure burden under Rule 602 is 30,590 hours annually which is comprised of 30,590 hours relating to Rule 602(a) and 0 hours relating to Rule 602(b).

Compliance with Rule 602 of Regulation NMS is mandatory and the information collected is made available to the public.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov*; and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner,100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: November 14, 2019.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–25097 Filed 11–19–19; 8:45 am]

**BILLING CODE 8011–01–P**

[1] 17 CFR 242.602(a).

[2] 17 CFR 242.602(b).

[3] Under Rule 602(b)(5), electronic communications networks (''ECNs'') have the option of reporting to an exchange or association for public dissemination, on behalf of customers that are OTC market makers or exchange market makers, the best-priced orders and the full size for such orders entered by market makers on the ECN, to satisfy such market makers' reporting obligation under Rule 602(b). Since this reporting requirement is an alternative method of meeting the market makers' reporting obligation, and because it is directed to nine or fewer persons (ECNs), this collection of information is not subject to OMB review under the Paperwork Reduction Act (''PRA'').

[4] For the reporting obligation under Rule 602(b), the respondents are exchange members and OTC market makers. The Commission believes that communication of quotations through an exchange's electronic trading system effectively means that exchange members currently have no reporting burden under Rule 602(b) for these quotations. The Commission also believes that there are presently no OTC market makers that quote other than on an exchange.

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–87536; File No. SR–LCH SA–2019–010]**

### Self-Regulatory Organizations; LCH SA; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to LCH SA's Fee Grid for Non Cash Collateral

November 14, 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 October 31, 2019, Banque Centrale de Compensation, which conducts business under the name LCH SA (''LCH SA''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which Items have been prepared primarily by LCH SA. LCH SA filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(2)[4] thereunder, so that the proposed rule change was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

Banque Centrale de Compensation, which conducts business under the name LCH SA (''LCH SA''), is proposing to review and modify its current fee grid applied for Non Cash Collateral (NCC) across all clearing services including CDSClear.

The text of the proposed rule change has been annexed as Exhibit 5.[5]

#### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, LCH SA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. LCH SA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] All capitalized terms not defined herein have the same definition as the Rule Book, Supplement or Procedures, as applicable.

*A. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.*

1. Purpose

LCH SA is currently applying the below fee grid for CDSClear members:

| Collateral type | FFT | | Pledge | |
|---|---|---|---|---|
| | House (bps) | Client (bps) | House (bps) | Client (bps) |
| Government Bonds | 10 | 10 | 10 | 10 |
| Supranational Bonds | N/A | N/A | N/A | N/A |
| Agency Bonds | 10 | 10 | 10 | 10 |

From November 1st, 2019, LCH SA is proposing to extend the scope of instruments eligible to margin collateral to EUR denominated bonds issued by a number of supranational and agency institutions. LCH SA is also proposing to extend the possibility to use the pledge solution in Euroclear Bank for the other LCH SA clearing services (namely RepoClear and EquityClear the ''Non US Business'' [6]). In this context, LCH SA is moving to apply more differentiation in its collateral fee grid and thus CDSClear has decided to harmonize its existing non-cash collateral fee grid for house collateral with that of the other LCH SA clearing services.

The objective of the proposed fee change is to differentiate the pricing by type of non-cash collateral accepted by LCH SA and deposit facility. These changes will be applicable across all LCH SA clearing services with the exception of CDSClear's client collateral fees that will differ from house fees and remain at their current level for all non-cash securities.

No amendments to the LCH SA CDS Clearing Rules are required to effect these changes.

As specified in the fee grid attached under Exhibit 5, the proposed house collateral fee change is for CDSClear to:

(i) Increase the fee rate from 10 bps to 11 bps for full title transfer of Government issued bonds; [7]

(ii) introduce a fee rate of 13 bps for full title transfer of Supranational issued bonds;

(iii) increase the fee rate from 10bps to 13bps for full title transfer of Agency issued bonds;

(iv) increase the fee rate from 10bps to 15bps for all pledged securities.

For CDSClear clients, a fee rate of 10 bps will be introduced for full title transfer of Supranational bonds. No other changes will be made to CDSClear's client collateral fees.

2. Statutory Basis.

Section 17A(b)(3)(D) of the Act requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges.[8]

LCH SA believes that its clearing fee change proposal is consistent with the requirements of Section 17A of the Act [9] and the regulations thereunder applicable to it, and in particular provides for the equitable allocation of reasonable fees, dues, and other charges among clearing members and market participants by ensuring that clearing members and clients pay reasonable fees and dues for the services provided by LCH SA, within the meaning of Section 17A(b)(3)(D) of the Act.

The extension of the non-cash eligible securities along with the extension of the pledge facility is an improvement of service that offers all LCH SA's members and clients more choice and therefore more opportunities to better tailor their collateral management to their needs but it also does bear consequences on LCH SA's balance sheet as a whole and therefore on its liquidity ratio management.

Currently the pledge facility is only available to CDSClear members and clients with a very limited use. However, as a result of the broadening of the pledge facility to Non US-Business, the expected overall impact on LCH SA's liquidity ratio now needs to be carefully monitored and managed. Further, in order to offer this enhanced collateral management service, LCH SA has also invested in the development of a number of additional systems and controls leading to the review and changes of the applicable fee grid.

Additionally, today, CDSClear members mainly post cash collateral and we do not foresee that the fee changes will alter current market practice amongst CDSClear's members and clients.

As an illustration, from January 2018 to September 2019, the percentage of collateral posted in securities was less than 20% on average for house activity, supporting the assessment that these fee changes will not have any material impact on CDSClear's revenues.

For all the reasons stated above, LCH SA believes that the proposed fee rates are reasonable and have been set up at an appropriate level given the costs, expenses and revenues generated to LCH SA in providing these improved collateral management services.

*B. Clearing Agency's Statement on Burden on Competition.*

Section 17A(b)(3)(I) of the Act requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[10]

LCH SA does not believe that the proposed rule change would impose any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act.

LCH SA is offering the possibility for CDSClear members and clients to post a greater scope of instruments as eligible margin collateral. Additionally, the proposed fee change will apply equally to all CDSClear clearing members. Finally, the fee rate changes will not adversely affect the ability of such members or other market participants generally to engage in cleared transactions or to access LCH SA's clearing services.

[6] See the definition under Order Granting Application for Registration as a Clearing Agency and Request for Exemptive Relief, Order, Securities Exchange Act Release No. 34–79707; File No. 600–36 (Dec. 29, 2016), 82 FR 1398 (Jan. 5, 2017) (available at *https://www.federalregister.gov/documents/2017/01/05/2016-31940/self-regulatory-organizations-lch-sa-order-granting-application-for-registration-as-a-clearing*).

[7] To become effective on April 1st, 2020

[8] 15 U.S.C. 78q–1(b)(3)(D).

[9] 15 U.S.C. 78q–1.

[10] 15 U.S.C. 78q–1(b)(3)(I).

Further, as explained above, LCH SA believes that the fee rates have been set up at an appropriate level given the costs and expenses to LCH SA in offering the relevant clearing services.

*C. Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments relating to the proposed rule change have not been solicited or received. LCH SA will notify the Commission of any written comments received by LCH SA.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and paragraph (f) of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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–LCH SA–2019–010 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–LCH SA–2019–010. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of LCH SA and on LCH SA's website at: *https://www.lch.com/resources/rules-and-regulations/proposed-rule-changes-0.* All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–LCH SA–2019–010 and should be submitted on or before December 11, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–25105 Filed 11–19–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

*Extension:*

Rule 6a–4, Form 1–N, SEC File No. 270–496, OMB Control No. 3235–0554

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information provided for in Rule 6a–4 and Form 1–N (17 CFR 240.6a–4 and 17 CFR 249.10) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act'').

Section 6 of the Exchange Act[1] sets out a framework for the registration and regulation of national securities exchanges. Under the Commodity Futures Modernization Act of 2000, a futures market may trade security futures products by registering as a national securities exchange. Rule 6a–4[2] sets forth these registration procedures and directs futures markets to submit a notice registration on Form 1–N.[3] Form 1–N calls for information regarding how the futures market operates, its rules and procedures, corporate governance, its criteria for membership, its subsidiaries and affiliates, and the security futures products it intends to trade. Rule 6a–4 also requires entities that have submitted an initial Form 1–N to file: (1) Amendments to Form 1–N in the event of material changes to the information provided in the initial Form 1–N; (2) periodic updates of certain information provided in the initial Form 1–N; (3) certain information that is provided to the futures market's members; and (4) a monthly report summarizing the futures market's trading of security futures products. The information required to be filed with the Commission pursuant to Rule 6a–4 is designed to enable the Commission to carry out its statutorily mandated oversight functions and to ensure that registered and exempt exchanges continue to be in compliance with the Act.

The respondents to the collection of information are futures markets.

The Commission estimates that the total annual burden of compliance with the requirements of Rule 6a–4 and Form 1–N is 171 hours per year and $1,216 per year, calculated as detailed below. The Commission estimates that the total annual burden for all respondents to provide periodic amendments[4] to keep the Form 1–N accurate and up to date as required under Rule 6a–4(b)(1) would be 60 hours (15 hours/respondent per year × 4 respondents[5] to provide annual amendments under Rule 6a–4(b)(3) would be 60 hours (15 hours/respondent/year × 4 respondents) and $400 of miscellaneous clerical expenses. The Commission estimates that the total annual burden for all respondents to provide three-year amendments[6] under Rule 6a–4(b)(4) would be 27 hours (20 hours/respondent × 1.33 respondents per year) and $176 ($44 per year × 4

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78f.

[2] 17 CFR 240.6a–4.

[3] 17 CFR 249.10.

[4] 17 CFR 240.6a–4(b)(1).

[5] The Commission estimates that four exchanges will file amendments with the Commission in order to keep their Form 1–N current.

[6] 17 CFR 240.6a–4(b)(3) and (4).

respondents [7]) in miscellaneous clerical expenses. The Commission estimates that the total annual burden for the filing of the supplemental information [8] and the monthly reports required under Rule 6a–4(c) would be 24 hours (6 hours/respondent per year × 4 respondents [9]) and $240 of miscellaneous clerical expenses.

Compliance with Rule 6a–4 is mandatory. Information received in response to Rule 6a–4 shall not be kept confidential; the information collected is public information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov*; and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549 or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: November 14, 2019.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–25096 Filed 11–19–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

*New Collection:*

Rule 139b; OMB Control No. New Collection, SEC File No. 270–815

Notice is hereby given that the Securities and Exchange Commission (the ''Commission'') has, in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3501 *et seq.*) (''PRA''), submitted a sponsored information collection request (''ICR'') to the Office of Management and Budget (''OMB'') for review and clearance for the collection of information associated with the new Rule 139b (17 CFR 230.139b) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) (''Securities Act'') that was adopted by the Commission on November 30, 2018.[1] The title for this collection of information is: ''Rule 139b Disclosure of Standardized Performance.''

As directed by the Fair Access to Investment Research Act of 2017 (Pub. L. 115–66, 131 Stat. 1196 (2017) (the ''FAIR Act''), the Commission adopted new rule 139b under the Securities Act to extend the safe harbor under rule 139 to a ''covered investment fund research report.'' Specifically, new rule 139b provides a safe harbor to a broker-dealer who publishes or distributes in the regular course of its business research reports concerning one or more ''covered investment fund(s)'' while participating in the distribution of a covered investment fund's securities.

In the Proposing Release, we solicited comment on whether rule 139b should include a standardized performance disclosure requirement.[2] In response to comments received, we have decided to adopt such a requirement.[3] We believe that standardized performance presentation is an appropriate requirement because investors tend to consider fund performance a significant factor in evaluating or comparing investment companies, and the requirement addresses potential investor confusion if a communication were not easily recognizable as research as opposed to an advertising prospectus or supplemental sales literature. Rule 139b requires that research reports about open-end funds that include performance information must present it in accordance with paragraphs (d), (e), and (g) of rule 482. Rule 139b also requires that research reports about closed-end funds that include performance information must present it in accordance with instructions to item 4.1(g) of Form N–2. Performance measures calculated by broker-dealers are not required to be kept confidential and there is no mandatory retention period. We anticipate that compliance with these performance measures for each fund discussed in a research report, and for which the performance measures apply, would increase compliance costs for broker-dealers seeking to publish or distribute a covered investment fund research report.

It is difficult to provide estimates of the burdens and costs for those broker-dealers that will include performance information in a rule 139b research report. As discussed above, this is difficult to estimate because current data collected does not reflect the affiliate exclusion, does not include the entire universe of covered investment funds, and it is uncertain what percentage of communications currently filed as rule 482 advertising prospectuses (or rule 34b–1 supplemental sales materials) will instead be published in reliance of rule 139b, as covered investment fund research reports.[4] For purposes of the PRA, we estimate that 10% of the rule 482 and rule 34b–1 communications currently filed by broker-dealers with FINRA (approximately 65,000) could be considered as rule 139b covered investment fund research reports. We estimate that broker-dealers will publish annually 6,500 (10% of 65,000) covered investment fund research reports. Moreover, we assume for purposes of the PRA that all estimated rule 139b research reports will include fund performance information. We further estimate that 1,417 broker-dealers would likely be respondents to the collection of information with a frequency of 4.6 responses per year.[5] We further estimate that 50% of these broker-dealers will have experience in complying with standardized performance requirements under rule 482. For the 50% of this subset of broker-dealers that do not have experience with complying with rule 482, we estimate that there will be a one-time implementation cost for each broker-dealer of 5 internal burden hours. Additionally, we estimate that each research report will require 3 hours of ongoing internal burden hours by a broker-dealers' personnel to comply with the rule 139b collection of information requirements, which for each broker-dealer is estimated to be

[7] The Commission notes that while there are currently five Security Futures Product Exchanges, one of those exchanges, NQLX, is dormant.

[8] 17 CFR 240.6a–4(c)

[9] *See supra* footnote 7.

[1] See Release No. 33–10580 (Nov. 30, 2018) [83 FR 64180 (Dec. 13, 2018)] (''Adopting Release''). New rule 139b will be effective on January 14, 2019.

[2] See Covered Investment Fund Research Reports, Securities Act Release No. 10498 (May 23, 2018) [83 FR 26788 (June 8, 2018)] (''Proposing Release'') at 26803–04.

[3] See Adopting Release, supra note I, at Section II.C.

[4] See Adopting Release, supra note 1, n. 413 and accompanying paragraph.

[5] See Adopting Release, supra note 1, n. 414 and accompanying text. 6,500 covered investment fund research reports/1,417 broker-dealers = 4.6 annual responses per broker-dealer.

13.8 internal burden hours.[6] Accordingly, we estimate that the standardized performance presentation requirements will result in an average annual hour burden of about 16.3 hours per broker-dealer[7] in the first year of compliance and about 13.8 hours per broker-dealer for each of the next two years. Amortized over three years, the average annual hour burden will be about 14.63 hours per broker-dealer.[8]

In sum, we estimate that rule 139b's requirements will impose a total annual internal hour burden of 20,731 hours on broker-dealers.[9] We do not think there is an external cost burden associated with this collection of information.

This information collection is subject to the PRA. If approved, responses to the new collection of information requirement would not be mandatory for broker-dealers seeking to rely upon rule 139b but would be necessary for those broker-dealers that would like to provide performance information in their covered investment fund research reports. Responses to the information collections will not be kept confidential.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov;* and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: November 13, 2019.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–24971 Filed 11–19–19; 8:45 am]

**BILLING CODE 8011–01–M**

[6] 4.6 annual responses per broker-dealer × 3 internal burden hours = 13.8 annual internal burden hours per broker-dealer.

[7] (50% of * 13.8 hours ongoing compliance) + (50% * (13.8 hours ongoing compliance + 5 hours of initial compliance hours)).

[8] ((16.3 internal burden hours in year 1) + (13.8 internal burden hours in year 2) + (13.8 internal burden hours in year 3)) / 3.

[9] 14.63 annualized burden hours * 1,417 broker-dealers.

## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 33682; 812–14625]**

## Blue Tractor ETF Trust and Blue Tractor Group, LLC; Notice of Application

November 14, 2019.

**AGENCY:** Securities and Exchange Commission (''Commission'').

**ACTION:** Notice of an application for exemptive relief.

**SUMMARY OF APPLICATION:** Applicants request an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. If granted, the requested order would permit registered open-end investment companies that are exchange-traded funds (''ETFs'') and are actively managed to operate without being subject to a daily portfolio transparency condition.

**APPLICANTS:** Blue Tractor Group, LLC (''Blue Tractor'') and Blue Tractor ETF Trust (the ''Trust'').

**FILING DATES:** The application was filed on March 14, 2016, and amended on September 28, 2016, February 1, 2017, July 31, 2017, January 17, 2018, April 11, 2018, May 23, 2018, May 8, 2019, June 20, 2019, August 2, 2019, October 21, 2019, and October 23, 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 December 9, 2019 and should be accompanied by proof of service on Applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549–1090; Applicants: Blue Tractor ETF Trust, Blue Tractor Group, LLC, 57 West 57th Street 4th Floor, New York, NY 10019.

**FOR FURTHER INFORMATION CONTACT:** Deepak T. Pai, Senior Counsel; Andrea Ottomanelli Magovern, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

### I. Introduction

1. Applicants seek to introduce a novel type of actively-managed ETF that would not be required to disclose its portfolio holdings on a daily basis (each, a ''Fund''). Due to their characteristics, ETFs (including those proposed by Applicants) are only permitted to operate in reliance on Commission exemptive relief from certain provisions of the Act and rules thereunder.[1] Accordingly, Applicants seek an order: under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 thereunder; under sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and 17(a)(2) of the Act; and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and (B) of the Act. The requested order would permit: (a) The Funds to issue shares (''Shares'') redeemable in large aggregations only (''creation units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of creation units; and (e) certain registered management investment companies and unit investment trusts outside of the same

[1] The Commission first granted exemptive relief to operate ETFs in the early 1990s when the first index-based ETFs were developed. *See* SPDR Trust Series I, Investment Company Act Release Nos. 18959 (Sept. 17, 1992) (notice) and 19055 (Oct. 26, 1992) (order). *See generally* Exchange Traded Funds, Investment Company Act Release No. 33646 (Sept. 25, 2019) (''ETF Rule Adopting Release''), at section I. The Commission has also granted ETFs exemptive relief from Sections 12(d)(1)(A) and (B) of the Act. *See generally* Fund of Funds Arrangements, Investment Company Act Release No. 33329 (Dec. 19, 2018).

group of investment companies as the Funds (''Investing Funds'') to acquire Shares of the Funds.

2. Section 6(c) allows the Commission to exempt any person, security, or transaction, or any class thereof, only ''if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of [the Act].'' As discussed below, the Commission believes that the Funds meet the standard for exemptive relief under section 6(c) of the Act.[2] Accordingly, the Commission intends to grant the requested relief.

## II. Background

### *A. Open-End Investment Companies and Net Asset Value*

3. The Act defines an investment company as an ''issuer'' of ''any security'' which ''is or holds itself out as being engaged primarily . . . in the business of investing . . . in securities.'' [3] Shares in an investment company represent proportionate interests in its investment portfolio, and their value fluctuates in relation to the changes in the value of that portfolio.

4. The most common form of investment company, the ''open-end'' investment company or mutual fund, is required by law to redeem its securities on demand at a price approximating the securities' proportionate share of the fund's NAV at the time of redemption.[4] These funds also continuously issue and sell new shares, thereby replenishing their investment capital.

5. Because open-end investment companies are required by law to redeem their shares based on investors' demands, shares of the funds have historically not traded on exchanges or in other secondary markets.[5]

### *B. Exemptions under the Act for Actively Managed ETFs*

6. ETFs, including those proposed by Applicants, are a type of open-end fund. But unlike traditional open-end funds, ETFs are made available to investors primarily through secondary market transactions on exchanges.

7. In order for this to take place, ETFs require various exemptions from the provisions of the Act and the rules thereunder. Critically, in granting such exemptions to date, the Commission has required that a mechanism exist to ensure that ETF shares would trade at a price that is at or close to the NAV per share of the ETF.[6]

8. Such a mechanism is essential for ETFs to operate because ETFs do not sell or redeem their individual shares at NAV per share as required by the Act. Instead, large broker-dealers that have contractual arrangements with an ETF (each, an ''Authorized Participant'') purchase and redeem ETF shares directly from the ETF, but only in large blocks called ''creation units.'' Traditionally, an Authorized Participant that purchases a creation unit of ETF shares first deposits with the ETF a ''basket'' of securities and other assets (*e.g.,* cash) identified by the ETF that day, and then receives the creation unit of ETF shares in return for those assets. The basket is generally representative of the ETF's portfolio and is equal in value to the aggregate NAV of ETF shares in the creation unit. After purchasing a creation unit, the Authorized Participant may sell the component ETF shares in secondary market transactions. Investors then purchase individual shares in the secondary market. The redemption process is the reverse of the purchase process: The Authorized Participant acquires a creation unit of ETF shares and redeems it for a basket of securities and other assets.

9. The combination of the creation and redemption process with the secondary market trading in ETF shares provides arbitrage opportunities that are designed to help keep the market price of ETF shares at or close to the NAV per share of the ETF.[7] For example, if ETF shares begin trading on national securities exchanges at a ''discount'' (a price below the estimated intraday NAV per share of the ETF), an Authorized Participant can purchase ETF shares in secondary market transactions and, after accumulating enough shares to comprise a creation unit, redeem them from the ETF in exchange for the more valuable securities and other assets in the ETF's redemption basket. In addition to purchasing ETF shares, Authorized Participants also are likely to hedge their intraday risk. Thus, for example, when ETF shares are trading at a discount to the estimated intraday NAV per share of the ETF, an Authorized Participant may also simultaneously short the securities in the ETF's redemption basket. At the end of the day, the Authorized Participant will return the creation unit of ETF shares to the ETF in exchange for the ETF's basket assets, and use such assets to cover its short positions. Those purchases reduce the supply of ETF shares in the market, and thus tend to drive up the market price of the shares to a level closer to the NAV per share of the ETF.[8]

10. Conversely, if the market price for ETF shares reflects a ''premium'' (a price above the estimated intraday NAV per share of the ETF), an Authorized Participant can deposit a basket of securities and other assets in exchange for the more valuable creation unit of ETF shares, and then sell the individual shares in the market to realize its profit.[9] An Authorized Participant also is likely to hedge its intraday risk when ETF shares are trading at a premium. Thus, for example, when the shares of an ETF are trading at a premium, an Authorized Participant may buy the securities in the ETF's purchase basket in the secondary market and sell short the ETF shares. At the end of the day, the Authorized Participant will deposit the basket assets in exchange for a creation unit of ETF shares, which it will then use to cover its short positions. The Authorized Participant will receive a profit from having paid less for the ETF shares than it received for the assets in the purchase basket. These transactions would increase the supply of ETF shares in the secondary market, and thus tend to drive down the price of ETF shares to a level closer to the NAV per share of the ETF.

11. Market participants can also engage in arbitrage activity without using the creation or redemption processes described above. For example, if a market participant believes that an ETF is overvalued relative to its underlying or reference assets (*i.e.* trading at a premium), the market participant may sell ETF shares short and buy the underlying or reference assets, wait for the trading prices to

[2] *See infra* section IV for a discussion of all the relief requested by Applicants, including relief under sections 17(b) and 12(d)(1)(J) of the Act.

[3] 15 U.S.C. 80a–3(a); 80a–3(a)(1).

[4] *See* section 22(d) and rule 22c–1; *see also infra* section IV.A (discussing section 22(d) and rule 22c–1).

[5] This stems from section 22(d) of the Act, which in effect fixes the prices at which redeemable securities, including open-end shares, are sold. The result is a system that precludes dealers from making a secondary market in open-end shares.

[6] This has been a required representation in all ETF orders since the Commission issued the first order. *See supra* note 1.

[7] *See* Investment Company Institute, *2019 Investment Company Fact Book* (2019), at 88–89; ETF Rule Adopting Release, *supra* note 1, at note 31 and accompanying text.

[8] The Authorized Participant's purchase of the ETF shares in the secondary market, combined with the sale of the redemption basket securities, may also create upward pressure on the price of ETF shares and/or downward pressure on the price of redemption basket securities, driving the market price of ETF shares and the value of the ETF's portfolio holdings closer together.

[9] The Authorized Participant's purchase of the basket assets, combined with the sale of ETF shares, may also create downward pressure on the price of ETF shares, upward pressure on the price of purchase basket securities, or both, bringing the market price of ETF shares and the value of the ETF's portfolio holdings closer together.

move toward parity, and then close out the positions in both the ETF shares and the underlying or reference assets to realize a profit from the relative movement of their trading prices. Similarly, a market participant could buy ETF shares and sell the underlying or reference assets short in an attempt to profit when an ETF's shares are trading at a discount to the ETF's underlying or reference assets. As discussed above, this type of trading of an ETF's shares and the ETF's underlying or reference assets may bring the prices of the ETF's shares and its portfolio assets closer together through market pressure.

12. In assessing whether to grant exemptive relief to actively managed ETFs in the past, the Commission has required a mechanism that would keep the market prices of ETF shares at or close to the NAV per share of the ETF.[10] This close tie between market price and NAV per share of the ETF is the foundation for why the prices at which retail investors buy and sell ETF shares are similar to the prices at which Authorized Participants are able to buy and redeem shares directly from the ETF at NAV. In granting relief from section 22(d) of the Act and rule 22c–1 under the Act, the Commission relies on this close tie between what retail investors pay and what Authorized Participants pay to make the finding that the ETF's shareholders are being treated equitably when buying and selling shares.[11]

## III. The Application

### *A. The Applicants*

13. The Trust is a statutory trust organized under the laws of Delaware and has registered with the Commission as an open-end management investment company. Blue Tractor, a Delaware limited liability company that, prior to serving as investment adviser to any Fund, will be registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''), would serve as the investment adviser to the initial Funds. The Trust will enter into a distribution agreement with one or more distributors. Any distributor will be a registered broker-dealer under the Securities Exchange Act of 1934, as amended (''Exchange Act''), and will act as distributor and principal underwriter of the Funds.

### *B. Applicants' Proposal*

14. Applicants seek exemptive relief under section 6(c) to allow them to introduce actively-managed Funds that would not disclose their portfolio holdings on a daily basis.[12] Applicants maintain that operating the Funds as fully-transparent actively-managed ETFs would make the Funds susceptible to ''front running'' and ''free riding'' by other investors and/or managers, which can harm, and result in substantial costs to, the Funds and their shareholders.[13]

15. Applicants believe that the Funds would allow investors to access active investment strategies offered by certain investment advisers that are currently only available via mutual funds, while also taking advantage of the traditional benefits of ETFs (*e.g.,* lower fund costs, tax efficiencies and intraday liquidity).

16. Applicants state that the relief in the application is similar to the relief granted in exemptive orders issued to existing actively managed ETFs, except for certain differences permitting the Funds to operate on a non-transparent basis.[14] These material differences are discussed below.

a. *Dynamic SSR Portfolio.* Each day a Fund would publish a basket of securities and cash that, while different from the Fund's portfolio, is designed to closely track its daily performance (the ''Dynamic SSR Portfolio'').[15] The Dynamic SSR Portfolio will contain all of the names of the securities in the Fund's portfolio, and only the securities that are in the Fund's portfolio. The Dynamic SSR Portfolio will have a minimum weightings overlap of 90% with the Fund's portfolio at the beginning of each trading day. In addition, every day the Fund would publicly disclose at the beginning of each trading day the maximum deviation between the weightings of the specific securities in the Dynamic SSR Portfolio and the weightings of those specific securities in the actual portfolio, as well as between the weighting of the respective cash positions (the ''Guardrail Amount''). Such number would help market participants evaluate the risk that the performance of the Dynamic SSR Portfolio may deviate from the performance of the portfolio holdings of a Fund.

Applicants state that the Dynamic SSR Portfolio would serve as a pricing and hedging tool for market participants to identify and take advantage of arbitrage opportunities. Because the Dynamic SSR Portfolio would be designed to closely track the daily performance of the Fund's holdings, the Dynamic SSR Portfolio would serve to estimate the value of those holdings. For the same reason, trading the Dynamic SSR Portfolio would allow market participants to get exposure to the performance of the Fund's holdings, so that a Fund's Dynamic SSR Portfolio could serve to hedge a position in the Fund's Shares. Further, the Dynamic SSR Portfolio would serve as the creation/redemption basket when Authorized Participants exchange creation units with the Fund.

Also in order to facilitate arbitrage, each Fund's portfolio and Dynamic SSR Portfolio will only include certain securities that trade on an exchange contemporaneously with the Fund's Shares.[16] Because the securities would

[10] Until recently, the Commission only approved a mechanism dependent on daily portfolio transparency. *See generally* ETF Rule Adopting Release, *supra* note 1, at section II.C.4. Last May, the Commission issued an order granting relief to actively managed ETFs that, like the Funds, do not disclose their complete portfolio holdings on a daily basis. *See* Precidian ETFs Trust, *et al.,* Investment Company Act Release No. 33440 (Apr. 8, 2019) (the ''Precidian Notice'') and 33477 (May 20, 2019) (the ''Precidian Order''). Applicants' proposed arbitrage mechanism differs from that in the Precidian Order.

[11] *See supra* note 4 and accompanying text.

[12] Applicants request that the order apply to series of the Trust identified and described in the application as well as to additional series of the Trust and any other open-end management investment company or series thereof that seek to rely on the relief requested in the application, each of which will operate as an actively-managed ETF. Any Fund will: (a) Be advised by Blue Tractor, or an entity controlling, controlled by, or under common control with Blue Tractor (each such entity and any successor thereto is included in the term ''Adviser''); and (b) comply with the terms and conditions of the application. The Adviser may retain one or more sub-advisers (each a ''Sub-Adviser'') for the Funds. Any Sub-Adviser will be registered under the Advisers Act. For purposes of the requested order, the term ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[13] *See* application at 5, 9, 18, and 23.

[14] *Cf.* Precidian Order *supra* note 10.

[15] The Funds would, at a minimum, provide the quarterly portfolio disclosures required for mutual funds. *See* rule 30b1–9 under the Act and Form N–PORT.

[16] Each Fund may invest only in ETFs, Exchange-traded notes, Exchange listed common stocks, common stocks listed on a foreign exchange that trade on such exchange contemporaneously with the Shares, Exchange-traded preferred stocks, Exchange-traded American depositary receipts, Exchange-traded real estate investment trusts, Exchange-traded commodity pools, Exchange-traded metals trusts, Exchange-traded currency trusts, and exchange-traded futures that trade contemporaneously with the Shares, as well as cash and cash equivalents. For purposes of the application, exchange-traded futures are U.S. listed futures contracts where the futures contract's reference asset is an asset that the Fund could invest in directly, or in the case of an index future, is based on an index of a type of asset that the Fund could invest in directly. All futures contracts that a Fund may invest in will be traded on a U.S. futures exchange. For these purposes, an ''Exchange'' is a national securities exchange as defined in section 2(a)(26) of the Act. No Fund will invest in a ''penny stock'' as defined in Exchange Act Rule 3a51–1, borrow for investment purposes, hold short positions, or purchase any security that is illiquid at the time of purchase. The Dynamic

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be exchange traded, market participants would be able to accurately price and readily trade the securities in the Dynamic SSR Portfolio for purposes of assessing the intraday value of the Fund's portfolio holdings and to hedge their positions in the Fund's shares.

b. *Arbitrage Transactions in the Funds.* Applicants state that, given the correlation between a Fund's Dynamic SSR Portfolio and its portfolio holdings, the Dynamic SSR Portfolio would serve as a pricing signal to identify arbitrage opportunities when its value and the secondary market price of the Shares diverge. If Shares began trading at a discount to the Dynamic SSR Portfolio, an authorized participant could purchase the Shares in secondary market transactions and, after accumulating enough Shares to comprise a creation unit, redeem them from the Fund in exchange for a redemption basket reflecting the NAV per share of the Fund's portfolio holdings.[17] The purchases of Shares would reduce the supply of Shares in the market, and thus tend to drive up the Shares' market price closer to the Fund's NAV.[18] Alternatively, if Shares are trading at a premium, the transactions in the arbitrage process are reversed.

Applicants further state that, like with traditional ETFs, market participants also can engage in arbitrage without using the creation or redemption processes.[19] For example, if a Fund is trading at a premium to the Dynamic SSR Portfolio, the market participant may sell Shares short and take a long position in the Dynamic SSR Portfolio securities, wait for the trading prices to move toward parity, and then close out the positions in both the Shares and the securities, to realize a profit from the relative movement of their trading prices. Similarly, a market participant could buy Shares and take a short position in the Dynamic SSR Portfolio securities in an attempt to profit when Shares are trading at a discount to the Dynamic SSR Portfolio.

c. *Protective conditions.* Applicants have agreed to comply with certain conditions in addition to those included in prior ETF exemptive orders.[20] First, the Funds will provide certain public disclosures to explain to investors how they differ from traditional ETFs and inform investors that the Funds' bid-ask spreads and premiums/discounts may be larger than those for traditional ETFs due to the lack of transparency, thus making trading in the Funds' Shares more expensive. The Funds will also disclose that market participants may attempt to reverse engineer a Fund's trading strategy, which, if successful, could increase opportunities for trading practices that may disadvantage the Fund and its shareholders.[21] Each Fund will include a legend (the ''Legend'') in a prominent location on the outside cover page of its prospectus, as well as on its website and any marketing materials, that will highlight for investors the differences between the Funds and fully transparent actively managed ETFs and the above costs and risk.[22] Unless otherwise requested by the staff of the Commission, the Legend will read as follows:

This ETF is different from traditional ETFs.

Traditional ETFs tell the public what assets they hold each day. This ETF will not. This may create additional risks for your investment. For example:

- You may have to pay more money to trade the ETF's shares. This ETF will provide less information to traders, who tend to charge more for trades when they have less information.
- The price you pay to buy ETF shares on an exchange may not match the value of the ETF's portfolio. The same is true when you sell shares. These price differences may be greater for this ETF compared to other ETFs because it provides less information to traders.
- These additional risks may be even greater in bad or uncertain market conditions.
- The ETF will publish on its website each day a ''Dynamic SSR Portfolio'' designed to help trading in shares of the ETF. While the Dynamic SSR Portfolio includes all the names of the ETF's holdings, it is not the ETF's actual portfolio.

The differences between this ETF and other ETFs may also have advantages. By keeping certain information about the ETF secret, this ETF may face less risk that other traders can predict or copy its investment strategy. This may improve the ETF's performance. If other traders are able to copy or predict the ETF's investment strategy, however, this may hurt the ETF's performance.

For additional information regarding the unique attributes and risks of the ETF, see section [ ] below.

17. Second, Applicants will comply with the requirements of Regulation Fair Disclosure (''Reg. FD'') as if it applied to them, thus prohibiting the Fund's selective disclosure of any material nonpublic information.[23] Because the Funds will not publicly disclose their portfolio holdings daily, the selective disclosure of material nonpublic information, including information other than portfolio information, would be more likely to provide an unfair advantage to the recipient than in other ETFs.

18. Third, the Funds and their Adviser will take remedial actions as necessary if the Funds do not function as anticipated. For the first three years after launch, a Fund will establish certain thresholds for its level of Tracking Error,[24] premiums/discounts, and spreads, so that, upon the Fund's crossing a threshold, the Adviser will promptly call a meeting of the Fund's board of directors and will present the board with recommendations for appropriate remedial measures.[25] The board would then consider the

SSR Portfolio will be subject to the same limitations.

[17] In addition to purchasing Shares, an authorized participant also would likely hedge its intraday risk by shorting the securities in the Dynamic SSR Portfolio (the same as in the redemption basket) in an amount corresponding to its long position in Shares. After the authorized participant returns a creation unit to the Fund in exchange for a redemption basket, the authorized participant can use the basket securities to cover its short positions. *Cf. supra* note 8.

[18] The purchase of the Shares in the secondary market, combined with the sale of the redemption basket securities, may also drive the market price of Shares and the value of the Fund's portfolio holdings closer together. *See supra* note 8.

[19] *See supra* paragraph 11.

[20] These are substantially the same as conditions included in the Precidian Order. See Precidian Notice *supra* note 10, at paragraph 17(d).

[21] *See* application at 17–18.

[22] *See* application at 17, 22 and 38.

[23] *See* 17 CFR 243. ETFs are not otherwise subject to Reg. FD. The federal securities laws and an investment adviser's fiduciary duties permit the disclosure of an ETF's nonpublic portfolio information to selected third parties only when the ETF has legitimate business purposes for doing so and the recipients are subject to a duty of confidentiality, including a duty not to trade on the nonpublic information. *See* Exchange Traded Funds, Investment Company Act Release No. 33140 (Jun. 28, 2018), at text accompanying notes 225–226 (proposing rule 6c–11 and discussing Reg. FD). Reg. FD's Rule 100(b)(2)(iii) exempts from Reg. FD certain communications made in connection with a securities offering registered under the Securities Act. Applicants would not rely on this exemption; as the Funds will be continuously offered, this exemption would likely make the condition requiring Applicants to comply with Reg. FD meaningless.

[24] ''Tracking Error'' is the standard deviation over the past three months of the daily difference, in percentage terms, between the Dynamic SSR Portfolio per share NAV and that of the Fund at the end of the trading day.

[25] *See* application at 21. For at least the first three years after launch of a Fund, its board would promptly meet (1) if the Tracking Error exceeds 1%; or (2) if, for 30 or more days in any quarter or 15 days in a row (a) the absolute difference between either the market closing price or Bid/Ask Price, on one hand, and NAV, on the other, exceeds 2%, or (b) the bid/ask spread exceeds 2%. A Fund may adopt additional or lower (*i.e.,* less than 1% for the Tracking Error or less than 2% for the others) thresholds to the extent deemed appropriate and approved by the Fund's board.

continuing viability of the Fund, whether shareholders are being harmed, and what, if any, action would be appropriate.[26] In addition, Applicants have agreed to provide to Commission staff on a periodic basis certain metrics and other such information as the staff may request in order to facilitate the staff's ongoing monitoring of the Funds.[27]

## IV. Requested Exemptive Relief

19. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

20. Applicants' request for relief is novel only under section 22(d) and rule 22c–1 due to the proposed alternative arbitrage mechanism. In all other respects, Applicants are seeking relief that the Commission has previously granted to existing ETFs. As discussed above, the requested relief would be available to any open-end investment company that is an actively-managed ETF operating in compliance with the terms and conditions of the order and that is advised by an Adviser.[28]

21. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general purposes of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

### *A. Novel Relief Under Section 22(d) and Rule 22c–1*

22. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through a principal underwriter other than at a current public offering price described in the fund's prospectus. Rule 22c–1 under the Act requires open-end funds, their principal underwriters, and dealers in fund shares (and certain others) to sell and redeem fund shares at a price based on the current NAV next computed after receipt of an order to buy or redeem.

23. Together, section 22(d) and rule 22c–1 are designed to: (i) Prevent dilution caused by certain riskless trading practices of principal underwriters and dealers; (ii) prevent unjust discrimination or preferential treatment among investors purchasing and redeeming fund shares; and (iii) preserve an orderly distribution of investment company shares.[29]

24. Applicants believe that none of these concerns will be raised by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that secondary market trading in Shares does not involve the Funds as parties and cannot result in dilution of an investment in Shares, and to the extent different prices for Shares exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, Applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, Applicants state that the proposed distribution system will be orderly because anyone will be able to sell or acquire Shares on an exchange and arbitrage activity should ensure that secondary market transactions occur at prices at or close to the Fund's NAV.

25. In considering relief from section 22(d) and rule 22c–1 for ETFs, the Commission has focused on whether the ETFs' arbitrage mechanism addresses the concerns underlying those provisions. The Commission believes that the alternative arbitrage mechanism proposed by Applicants can work in an efficient manner to maintain a Fund's secondary market prices close to its NAV.[30] The Commission recognizes, however, that the lack of full transparency may cause the Funds to trade with spreads and premiums/discounts that are larger than those of comparable, fully transparent ETFs.[31] Nonetheless, as long as arbitrage continues to keep the Fund's secondary market price and NAV close, and does so efficiently so that spreads remain narrow, the Commission believes that investors would benefit from the opportunity to invest in active strategies through a vehicle that offers the traditional benefits of ETFs.[32]

### *B. Other Relief*

26. The additional exemptive relief Applicants seek is relief routinely granted to ETFs, and does not raise novel issues on account of the lack of daily portfolio transparency.

27. *Sections 5(a)(1) and 2(a)(32) of the Act.* First, because the Shares will not be

[26] For at least three years after launch of each Fund, the Board will also undertake these considerations on an annual basis, regardless of whether the Fund's preset thresholds have been crossed. Potential actions may include, but are not limited to, changing lead market makers, listing the Fund on a different exchange, changing the size of creation units, changing the Fund's investment objective or strategy, and liquidating the Fund. *See* application at 21.

[27] *See* application at 38, condition 6.

[28] Applicants request that the terms and conditions of the requested order apply to other registered open-end management investment companies or series thereof not advised by the Adviser. Applicants anticipate that the Adviser or an affiliate thereof would enter into license agreements with other registered investment advisers (a ''Licensed Adviser'') advising an open-end management investment company that intends to launch new series operating as the Applicants' Funds (such Licensed Adviser and investment company together, the ''Future Applicants''). Applicants further expect that Future Applicants would apply for a separate exemptive order that incorporates by reference all the terms and conditions of the requested order and any amendments thereto. *See* application at 7. *See also* Precidian Notice *supra* note 10, at note 41 and in re Eaton Vance Management, et al., File No. 812–14139, Fourth Amendment, filed Sept. 25, 2014; Investment Company Act Rel. No. 31333 (Nov. 6, 2014) (notice), Investment Company Act Rel. No. 31361 (Dec. 2, 2014) (order). *See also, e.g.,* in re American Beacon Nextshares Trust, et al., File No. 812–14417, First Amendment, filed Feb. 23, 2015; Investment Company Act Rel. No. 31498 (Mar. 6, 2015) (notice); Investment Company Act Rel. No. 31542 (Apr. 1, 2015) (order).

[29] *See* ETF Rule Adopting Release, *supra* note 1, at text accompanying note 116.

[30] *See supra* paragraph 16(b).

[31] The performance of a Fund's Dynamic SSR Portfolio and portfolio holdings may deviate to some extent, which would make market participants' estimates of the profitability of their arbitrage transactions less precise. To account for this possibility, market participants would likely require wider spreads to trade Shares.

[32] Investors will have the information necessary to compare the costs associated with investing in the Funds with the costs of investing in other ETFs and mutual funds. *See* Item 3 of Form N–1A; condition 2. *Cf.* ETF Rule Adopting Release, *supra* note 1, at text following note 119 (noting that for fully transparent ETFs, ''under certain circumstances, including during periods of market stress, the arbitrage mechanism may work less effectively for a period of time,'' but that ''on balance, . . . investors are more likely to weigh the potential benefits of ETFs (*e.g.,* low cost and intraday trading) against any potential for market price deviations when deciding whether to utilize ETFs.'' *Cf.* Precidian Notice *supra* note 10, at 19–20.

individually redeemable, Applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue Shares that are redeemable in creation units only.

28. *Section 22(e) of the Act.* Second, Applicants seek relief from section 22(e) to permit Funds to satisfy redemption requests more than seven days from the tender of Shares for redemption with respect to foreign securities where the settlement cycle, coupled with local holiday schedules, would not permit a Fund to satisfy redemption requests within the seven days required under section 22 (e) of the Act. A Fund would deliver the foreign securities as soon as practicable, but in no event later than 15 days after the tender of Shares.

29. *Sections 17(a)(1) and (2) of the Act.* Second, Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are affiliated persons, or second-tier affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of creation units and the redemption procedures for in-kind redemptions of creation units will be the same for all purchases and redemptions and basket securities will be valued in the same manner as those portfolio securities currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its Shares to and redeem its Shares from an Investing Fund, and to engage in the accompanying in-kind transactions with the Investing Fund.[33] The purchase of creation units by an Investing Fund directly from a Fund will be accomplished in accordance with the policies of the Investing Fund and will be based on the NAVs of the Funds.

30. *Section 12(d)(1) of the Act.* Third, Applicants request an exemption to permit Investing Funds to acquire Fund Shares beyond the limits of section 12(d)(1)(A) of the Act and permit the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell Fund Shares to Investing Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

*C. Consideration of Possible Concerns Relating to the Requested Relief*

31. As part of our review, we have considered possible concerns regarding the requested relief, including, among others, concerns related to the proposed arbitrage mechanism, the use of Dynamic SSR Portfolios, and reverse engineering, as discussed below. We believe, however, that the Applicants' proposed terms and conditions sufficiently address such concerns.

32. *Proposed Arbitrage Mechanism.* One possible concern is that the proposed arbitrage mechanism may not facilitate effective arbitrage, which could result in significant deviations between the secondary market price and NAV per share of a Fund. We believe that the proposed arbitrage mechanism can work in an efficient manner to maintain secondary market prices of Shares close to their NAV while providing investors with the opportunity to invest in active strategies through a vehicle that offers the traditional benefits of ETFs.[34] In addition, to the extent that the Funds do not function as anticipated, Applicants have undertaken to take remedial actions as appropriate.[35]

33. *Use of Dynamic SSR Portfolios.* Applicants have also addressed possible implications of using a Dynamic SSR Portfolio as an arbitrage mechanism. First, Applicants note that a Fund's Dynamic SSR Portfolio would not misrepresent the Fund's holdings or cause investor confusion.[36] To that effect, the Funds would provide disclosures in their prospectus, marketing materials and website clearly indicating the Dynamic SSR Portfolio's purpose and that it is not the Fund's portfolio holdings.[37] Second, because the Dynamic SSR Portfolio will only contain the same securities as in a Fund's portfolio, Applicants state that the use of the Dynamic SSR Portfolio would not cause transactions in securities that are not in the Fund's portfolio.

34. *Reverse Engineering.* A third possible concern is that other market participants may be able to reverse engineer current activity in a Fund's holdings and use such information to the disadvantage of the Fund, Authorized Participants and shareholders. Applicants have represented that they will operate the Funds in a manner designed to minimize the risk of reverse engineering and we anticipate that the Funds will have the ability to minimize such risk.[38] Indeed, we note that the Applicants have a significant incentive to minimize this risk, considering that the purpose of their proposed arbitrage mechanism is to facilitate the operation of ETFs that limit the ETFs' susceptibility to predatory trading practices, like ''front running'' and ''free riding.'' [39]

## V. Applicants' Conditions[40]

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

*A. ETF Relief*

1. As long as a Fund operates in reliance on the requested order, the Shares of the Fund will be listed on an exchange.

2. The website for the Funds, which will be publicly accessible at no charge, will contain, on a per Share basis, for each Fund the prior business day's NAV and market closing price or Bid/Ask Price of the Shares, a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV, and any other information regarding premiums and discounts as may be required for other ETFs under rule 6c–11 under the Act, as amended. The website will also disclose any information regarding the bid-ask

[33] The requested relief would apply to direct sales of shares in creation units by a Fund to an Investing Fund and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or a second-tier affiliate, of an Investing Fund because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Investing Fund.

[34] *See supra* paragraphs 15 and 16.

[35] *See supra* paragraph 18.

[36] *See* application at 21–22.

[37] *See* application at 17 and 22. In addition, every day a Fund would disseminate the Guardrail Amounts, which would inform market participants as to the degree to which the weightings of the specific securities and cash in the Dynamic SSR Portfolio and the weightings of those specific securities and cash in the actual portfolio may differ. *See* application at 10.

[38] Our Division of Economic Research and Analysis (''DERA'') considered whether the current activity in a Fund's holdings could be reverse engineered and concluded that the answer depends on the specifics of each Fund, including the size of the Fund's universe of potential portfolio selections, the mechanics of how the Fund's Dynamic SSR Portfolio is constructed in relationship to the Fund's portfolio holdings, the type of information disclosed about the Fund's portfolio holdings, and the degree of overlap between the Fund's Dynamic SSR Portfolio and its portfolio holdings. The Funds would disclose this risk to investors. *See* application at 17–18.

[39] *See* application at 22–23.

[40] Capitalized terms not otherwise defined herein shall have the same meaning as in the application.

spread for each Fund as may be required for other ETFs under rule 6c–11 under the Act, as amended.

3. Each Fund will include the Legend in a prominent location on the outside cover page of its prospectus, as well as on its website and any marketing materials.

4. On each business day, before the commencement of trading of Shares, each Fund will publish on its website a Dynamic SSR Portfolio and the Guardrail Amount for that day.

5. No Adviser or Sub-Adviser, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any deposit instrument for a Fund through a transaction in which the Fund could not engage directly.

6. Each Fund will provide Commission staff with periodic reports (for which confidential treatment may be requested) containing such information as the Commission staff may request.

7. Each Fund and each person acting on behalf of a Fund will comply with and agree to be subject to the requirements of Regulation Fair Disclosure as if it applied to them (except that the exemptions provided in Rule 100(b)(2)(iii) therein shall not apply).

8. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of actively managed ETFs that disclose a proxy portfolio on each business day without fully disclosing the ETF's entire portfolio at the same time.

9. Each Fund will maintain and preserve, for a period of not less than five years, in an easily accessible place, (i) all written agreements (or copies thereof) between an Authorized Participant and the Fund or one of its service providers that allows the Authorized Participant to place orders for the purchase or redemption of creation units; (ii) a copy of the Dynamic SSR Portfolio published on the Fund's website for each business day; and (iii) a list of all creation or redemption baskets exchanged with an Authorized Participant where cash was included in the basket *in lieu* of some or all of the Dynamic SSR Portfolio securities (except for cash included because the securities are not eligible for trading by the Authorized Participant or the investor on whose behalf the Authorized Participant is acting), the amount of any such cash *in lieu* and the identity of the Authorized Participant conducting the transaction.

*B. Section 12(d)(1) Relief*

10. The members of the Investing Fund's Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of the Investing Fund's Sub-Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Investing Fund's Advisory Group or the Investing Fund's Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Investing Fund's Sub-Advisory Group with respect to a Fund for which the Investing Fund Sub-Adviser or a person controlling, controlled by or under common control with the Investing Fund Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

11. No Investing Fund or Investing Fund Affiliate will cause any existing or potential investment by the Investing Fund in a Fund to influence the terms of any services or transactions between the Investing Fund or an Investing Fund Affiliate and the Fund or a Fund Affiliate.

12. The board of directors or trustees of an Investing Management Company, including a majority of the independent directors or trustees, will adopt procedures reasonably designed to ensure that the Investing Fund Adviser and any Investing Fund Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or an Investing Fund Affiliate from a Fund or a Fund Affiliate in connection with any services or transactions.

13. Once an investment by an Investing Fund in the Shares of a Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, the Board of a Fund, including a majority of the independent directors or trustees, will determine that any consideration paid by the Fund to the Investing Fund or an Investing Fund Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

14. The Investing Fund Adviser, or Trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Investing Fund in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–l under the Act) received from a Fund by the Investing Fund Adviser, or Trustee or Sponsor, or an affiliated person of the Investing Fund Adviser, or Trustee or Sponsor, other than any advisory fees paid to the Investing Fund Adviser, or Trustee or Sponsor, or its affiliated person by the Fund, in connection with the investment by the Investing Fund in the Fund. Any Investing Fund Sub-Adviser will waive fees otherwise payable to the Investing Fund Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Investing Fund Sub-Adviser, or an affiliated person of the Investing Fund Sub-Adviser, other than any advisory fees paid to the Investing Fund Sub-Adviser or its affiliated person by the Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Investing Fund Sub-Adviser. In the event that the Investing Fund Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

15. No Investing Fund or Investing Fund Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an Affiliated Underwriting.

16. The Board of a Fund, including a majority of the independent directors or trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Investing Fund in the Fund. The Board will consider, among

other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

17. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

18. Before investing in a Fund in excess of the limits in section 12(d)(1)(A), an Investing Fund will execute a FOF Participation Agreement with the Fund stating that their respective boards of directors or trustees and their investment advisers, or Trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), an Investing Fund will notify the Fund of the investment. At such time, the Investing Fund will also transmit to the Fund a list of the names of each Investing Fund Affiliate and Underwriting Affiliate. The Investing Fund will notify the Fund of any changes to the list as soon as reasonably practicable after a change occurs. The Fund and the Investing Fund will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

19. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company, including a majority of the independent directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Investing Management Company.

20. Any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in FINRA Rule 2341.

21. No Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–25068 Filed 11–19–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–87537; File No. SR–Phlx–2019–48]**

## Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Customer Rebate Program

November 14, 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 November 1, 2019, Nasdaq PHLX LLC (''Phlx'' 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 amend the Exchange's Customer Rebate Program, as set forth in the Pricing Schedule at Options 7, Section 1, Part B.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's Customer Rebate Program, as set forth in the Pricing Schedule at Options 7, Section 1, Part B. As described in greater detail below, the Exchange proposes to adopt an alternative method for members or member organizations (hereinafter, ''members'') to qualify for the program's Tier 2 rebates based on the member meeting a certain percentage threshold of total national Customer[3] volume in multiply-listed options classes, reaching the Monthly Firm Fee Cap,[4] and meeting the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Customer'' applies to any transaction that is identified by a member for clearing in the Customer range at The Options Clearing Corporation (''OCC'') which is not for the account of a broker or dealer or for the account of a ''Professional'' (as that term is defined in Rule 1000(b)(14)). *See* Options 7, Section 1.

[4] Firms are subject to a maximum fee of $75,000 (''Monthly Firm Fee Cap''). Firm Floor Option

Exchange's Market Access and Routing Subsidy (''MARS'') System Eligibility [5] requirements. With the proposed changes, the Exchange seeks to attract additional liquidity and order flow to the Exchange, which will benefit all market participants from increased opportunities for price improvement.

Background

Options 7, Section 4 sets forth a Monthly Firm Fee Cap that limits, or caps, at $75,000 per month the Firm [6] Floor Option Transaction Charges and Firm QCC Transaction Fees incurred by members trading in their own proprietary account.[7] The Monthly Firm Fee Cap is designed to provide an incentive for members to bring additional Firm floor and QCC order flow to the Exchange.

Options 7, Section 6, Part E sets forth the Exchange's MARS program, which provides rebates to qualifying members with System Eligibility and that execute the requisite number of Eligible Contracts [8] in a month. MARS is designed to attract electronic equity and ETF options volume to the Exchange, particularly electronic Firm, Broker-Dealer,[9] JBO [10] and Professional [11] order flow.

As set forth in Options 7, Section 1, Part B, the Exchange presently offers a Customer Rebate Program that is designed to attract electronic Customer order flow to the Exchange. In particular, the program consists of the following five tiers that pay Customer rebates on four Categories, A,[12] B,[13] C,[14] D,[15] of transactions: [16]

| Customer Rebate Tiers | Percentage Thresholds of National Customer Volume in Multiply-Listed Equity and ETF Options Classes, excluding SPY Options (monthly) | Category A | Category B | Category C | Category D |
|---|---|---|---|---|---|
| Tier 1 | 0.00%–0.60% | $0.00 | $0.00 | $0.00 | $0.00 |
| Tier 2 | Above 0.60%–1.10% | 0.10 | 0.10 | 0.16 | 0.21 |
| Tier 3 | Above 1.10%–1.60% | 0.15 | 0.12 | 0.18 | 0.22 |
| Tier 4 | Above 1.60%–2.50% | 0.20 | 0.16 | 0.22 | 0.26 |
| Tier 5 | Above 2.50% | 0.21 | 0.17 | 0.22 | 0.27 |

A Phlx member qualifies for a particular Customer Rebate Tier based on the percentage of total national Customer volume in multiply-listed options that it transacts monthly on the Exchange. Specifically, the Exchange totals Customer volume in multiply listed options (including SPY) that is electronically-delivered and executed, except volume associated with electronic QCC Orders, as defined in Exchange Rule 1080(o), and calculates this as a percentage of total national customer volume in multiply-listed equity and ETF options classes, excluding SPY. Members under

Transaction Charges and QCC Transaction Fees, as set forth in Options 7, Section 4, in the aggregate, for one billing month will not exceed the Monthly Firm Fee Cap per member organization when such members are trading in their own proprietary account. All dividend, merger, and short stock interest strategy executions (as defined in this Options 7, Section 4) will be excluded from the Monthly Firm Fee Cap. NDX and NDXP Options Transactions will be excluded from the Monthly Firm Fee Cap. Reversal and conversion, jelly roll and box spread strategy executions (as defined in this Options 7, Section 4) will be included in the Monthly Firm Fee Cap. QCC Transaction Fees are included in the calculation of the Monthly Firm Fee Cap. *See* Options 7, Section 4.

[5] To qualify for MARS, a Phlx member's routing system (hereinafter ''System'') would be required to: (1) Enable the electronic routing of orders to all of the U.S. options exchanges, including Phlx; (2) provide current consolidated market data from the U.S. options exchanges; and (3) be capable of interfacing with Phlx's API to access current Phlx match engine functionality. Further, the member's System would also need to cause Phlx to be the one of the top five default destination exchanges for individually executed marketable orders if Phlx is at the national best bid or offer (''NBBO''), regardless of size or time, but allow any user to manually override Phlx as a default destination on an order-by-order basis. Notwithstanding the above, with respect to Complex Orders a Phlx member's routing system would not be required to enable the electronic routing of orders to all of the U.S. options exchanges or provide current consolidated market data from the U.S. options exchanges. Any Phlx member would be permitted to avail itself of this arrangement, provided that its order routing functionality incorporates the features described above and satisfies Phlx that it appears to be robust and reliable. The member remains solely responsible for implementing and operating its system. *See* Options 7, Section 6, Part E.

[6] The term ''Firm'' applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC. *See* Options 7, Section 1.

[7] The Firm Floor Option Transaction Charges and QCC Transaction Fees are set forth in Options 7, Section 4. QCC Transaction Fees apply to both electronic and floor QCC orders.

[8] Eligible Contracts include the following: Firm, Broker-Dealer, Joint Back Office or ''JBO'' or Professional equity option orders that are electronically delivered and executed. Eligible Contracts do not include floor-based orders, qualified contingent cross or ''QCC'' orders, price improvement or ''PIXL'' orders, Mini Option orders or Singly Listed Orders. Options overlying NDX and NDXP are not considered Eligible Contracts. *See* Options 7, Section 6, Part E.

[9] The term ''Broker-Dealer'' applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

[10] The term ''Joint Back Office'' or ''JBO'' applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC and is identified with an origin code as a JBO. A JBO will be priced the same as a Broker-Dealer. A JBO participant is a member, member organization or non-member organization that maintains a JBO arrangement with a clearing broker-dealer (''JBO Broker'') subject to the requirements of Regulation T Section 220.7 of the Federal Reserve System as further discussed at Exchange Rule 703.

[11] The term ''Professional'' applies to transactions for the accounts of Professionals, as defined in Exchange Rule 1000(b)(14) means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

[12] The Category A Rebate is paid to members executing electronically-delivered Customer Simple Orders in Penny Pilot Options and Customer Simple Orders in Non-Penny Pilot Options in Options 7, Section 4 symbols.

[13] The Category B Rebate is paid on Customer PIXL Orders in Options 7, Section 4 symbols that execute against non-Initiating Order interest. In the instance where member qualify for Tier 4 or higher in the Customer Rebate Program, Customer PIXL Orders that execute against a PIXL Initiating Order are paid a rebate of $0.14 per contract. Rebates on Customer PIXL Orders are capped at 4,000 contracts per order for Simple PIXL Orders.

[14] The Category C Rebate is paid to members executing electronically-delivered Customer Complex Orders in Penny Pilot Options in Options 7, Section 4 symbols. Rebates are paid on Customer PIXL Complex Orders in Options 7, Section 4 symbols that execute against non-Initiating Order interest. Customer Complex PIXL Orders that execute against a Complex PIXL Initiating Order are not paid a rebate under any circumstances. The Category C Rebate is not paid when an electronically-delivered Customer Complex Order, including Customer Complex PIXL Order, executes against another electronically-delivered Customer Complex Order.

[15] The Category D Rebate is paid to members executing electronically-delivered Customer Complex Orders in Non-Penny Pilot Options in Options 7, Section 4 symbols. Rebates are paid on Customer PIXL Complex Orders in Options 7, Section 4 symbols that execute against non-Initiating Order interest. Customer Complex PIXL Orders that execute against a Complex PIXL Initiating Order are not paid a rebate under any circumstances. The Category D Rebate is not paid when an electronically-delivered Customer Complex Order, including Customer Complex PIXL Order, executes against another electronically-delivered Customer Complex Order.

[16] Rebates are not paid on NDX or NDXP contracts in any Category; however, NDX and NDXP contracts count toward the volume requirement to qualify for a Customer Rebate Tier.

Common Ownership [17] may aggregate their Customer volume for purposes of calculating the Customer Rebate Tiers and receiving rebates. Affiliated Entities [18] may aggregate their Customer volume for purposes of calculating the Customer Rebate Tiers and receiving rebates.

Proposal

The Exchange now proposes to adopt an alternative method for members to qualify for the applicable Tier 2 rebates described above. As discussed above, the proposed alternative will be based on the member meeting a certain percentage threshold of total national Customer volume in multiply-listed options classes, reaching the Monthly Firm Fee Cap, and meeting the MARS System Eligibility requirements. Specifically, the Exchange proposes to add the following language at the end of Options 7, Section 1, Part B: ''The Exchange will pay the applicable Tier 2 rebates to qualifying members or member organizations, qualifying affiliates under Common Ownership, or qualifying Affiliated Entities, provided they: (1) Execute a Percentage Threshold of National Customer Volume in Multiply-Listed Equity and ETF Options Classes, excluding SPY Options (monthly), of above 0.25%; (2) reach the Monthly Firm Fee Cap as defined in Options 7, Section 4; and (3) meet the MARS System Eligibility requirements as provided in Options 7, Section 6, Part E.''

Applicability to and Impact on Participants

The proposed change is designed to incentivize members who reach the Monthly Firm Fee Cap and have MARS System Eligibility to increase their electronic Customer volume to qualify for the applicable Tier 2 rebates. The proposal may correspondingly encourage members to qualify for the Monthly Firm Fee Cap and the MARS System Eligibility requirements (which should increase Firm floor volume and Firm QCC volume as well as electronic Firm, Broker-Dealer, JBO and Professional volume). The Exchange notes that all market participants stand to benefit from increased volume, which facilitates tighter spreads and enhances price discovery, and may lead to a corresponding increase in order flow from other market participants.

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 Sections 6(b)(4) and 6(b)(5) of the Act,[20] 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 Proposal is Reasonable

The Exchange believes that the proposed alternative method to qualify for the applicable Tier 2 rebates in the Customer Rebate Program is reasonable for several reasons. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' [21]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options transaction services. The Exchange is only one of sixteen options exchanges to which market participants may direct their order flow. Competing options exchanges offer similar tiered pricing structures to that of the Exchange, including tiered rebates that apply based upon members achieving certain volume thresholds.[22] Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules.

Within the foregoing context, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors. The Exchange's proposal is designed to attract additional liquidity and order flow to the Exchange, similar to other exchange programs with competitive pricing programs,[23] thereby promoting market depth, price discovery and improvement, and enhancing order execution opportunities for market participants. As discussed above, the proposed changes provide an additional opportunity for members to earn the applicable Tier 2 Customer rebates if they execute a percentage threshold of national Customer volume in multiply-listed equity and ETF options classes, excluding SPY options, of above 0.25% on the Exchange, reach the Monthly Firm Fee Cap, and have MARS System Eligibility. Today, the Exchange provides the same Tier 2 rebates to members that execute a percentage threshold of national Customer volume in multiply-listed equity and ETF options classes, excluding SPY options, of above 0.60% to 1.10% on the Exchange. This proposal would offer members an alternative route to earn the same Tier 2 rebates, provided they meet the lower percentage threshold of above 0.25% and also qualify for both the Monthly Firm Fee Cap and the MARS System Eligibility requirements. The Exchange believes that the proposed percentage threshold is set at an appropriate level that would encourage members to bring more Customer order flow to the Exchange to qualify for the applicable Tier 2 rebates. While the Exchange cannot predict with certainty whether any members would avail themselves of the proposed incentive

[17] The term ''Common Ownership'' shall mean members or member organizations under 75% common ownership or control. *See* Options 7, Section 1.

[18] The term ''Affiliated Entity'' is a relationship between an Appointed MM and an Appointed OFP for purposes of qualifying for certain pricing specified in the Pricing Schedule. Members under Common Ownership may not qualify as a counterparty comprising an Affiliated Entity. Each member may qualify for only one (1) Affiliated Entity relationship at any given time. *See* Options 7, Section 1.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(4) and (5).

[21] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[22] *See, e.g.,* NYSE American Options Fee Schedule, Section I.E (setting forth the American Customer Engagement (''ACE'') Program that provides tiered customer credits on customer electronic volume, provided the member achieves certain total industry customer equity and ETF option average daily volume percentage thresholds), Section I.H (setting forth the Professional Step-Up Incentive that provides discounted rates or credits, as applicable, to professional customer, broker-dealer, non-NYSE American Options market maker, and firm ranges, and also ties some of these benefits to the ACE Program), and Section I.I (setting forth the Firm Monthly Fee Cap that caps at $100,000 per month the fees associated with Firm Manual transactions, and also lowers the firm fee cap for members that achieve the applicable ACE Program tiers).

[23] *Id.*

given that this incentive is new, assuming historical behavior can be predictive of future behavior, the Exchange believes that at present participation rates, almost 30% of active firms on the Exchange have comparable trading volume in the Customer category. The Exchange also believes that the proposed lower percentage threshold (*i.e.,* above 0.25% versus the current Tier 2 threshold of above 0.60% to 1.10%) is reasonable because members must meet additional qualifications (*i.e.,* reach the Monthly Firm Fee Cap and have MARS System Eligibility) under the proposed alternative method to receive the Tier 2 rebates on Customer transactions.

Furthermore, the Exchange believes that its proposal will encourage members to increase the amount of Customer order flow directed to the Exchange. In addition, because members will also be required to reach the Monthly Firm Fee Cap and have MARS System Eligibility to receive the applicable Tier 2 Customer rebates, the proposed program may encourage members to direct Firm floor and QCC order flow as well as electronic Firm, Broker-Dealer, JBO and Professional order flow, in addition to electronic Customer order flow. The Exchange notes that all market participants stand to benefit from increased order flow—whether Customer, Firm, Broker-Dealer, JBO or Professional, and whether floor or electronic—as such increase promotes market depth, facilitates tighter spreads, enhances price discovery, and may lead to an increase in order flow from other market participants that would not otherwise qualify for the proposed alternative route to the Tier 2 Customer rebates.

The Proposal Is an Equitable Allocation of Rebates

The Exchange believes that its proposal is an equitable allocation of the applicable Tier 2 rebates. The proposal is based on the amount and type of business transacted on the Exchange, and members can opt to avail themselves of these rebates or not. Furthermore, this proposal is designed to encourage members to bring and execute their order flow (particularly electronic Customer volume and, in turn, Firm floor, QCC, and electronic Firm, Broker-Dealer, JBO and Professional volume) to the Exchange. To the extent at the proposed changes attract such additional volume to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for, among other things, order execution. Thus, the Exchange believes the proposed changes would improve market quality for all market participants on the Exchange, and increase its attractiveness to existing and prospective members.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that its proposal is not unfairly discriminatory. As an initial matter, the Exchange believes that nothing about its volume-based tiered pricing model is inherently unfair; instead, it is a rational pricing model that is well-established and ubiquitous in today's economy among firms in various industries—from co-branded credit cards to grocery stores to cellular telephone data plans—that use it to reward the loyalty of their best customers that provide high levels of business activity and incent other customers to increase the extent of their business activity. It is also a pricing model that the Exchange and its competitors have long employed with the assent of the Commission. It is fair because it incentivizes customer activity that increases liquidity, enhances price discovery, and improves the overall quality of the options market.

As discussed above, the proposal is based on the amount and type of business transacted on the Exchange, and members are not obligated to try to achieve the proposed alternative route to the Tier 2 Customer rebates. Rather, the proposal is designed to encourage these members to bring additional order flow (particularly electronic Customer volume and, in turn, Firm floor, QCC, and electronic Firm, Broker-Dealer, JBO and Professional volume) to the Phlx market, improving market quality and price discovery. The Exchange believes that the proposed qualification for the Tier 2 Customer rebates is not unfairly discriminatory because to the extent the proposed changes attract more volume to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for order execution, among other things. As noted above, all market participants stand to benefit from increased order flow—whether Customer, Firm, Broker-Dealer, JBO or Professional, and whether floor or electronic—as such increase promotes market depth, facilitates tighter spreads, enhances price discovery, and may lead to an increase in order flow from other market participants that would not otherwise qualify for the proposed alternative route to the Tier 2 Customer rebates. Thus, the Exchange believes the proposed changes will help to improve market quality and the attractiveness of the Exchange's options market to all existing and prospective 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.

Intramarket Competition

The proposed amendments to the Exchange's Customer Rebate Program described above do not impose an undue burden on intra-market competition. By fortifying participation in this program, the proposed changes are designed to attract additional order flow (particularly electronic Customer volume and, in turn, Firm floor, QCC, and electronic Firm, Broker-Dealer, JBO and Professional volume) to the Exchange. The Exchange believes that its proposal would incentivize market participants to direct additional volume to the Exchange. As noted above, all market participants stand to benefit from increased order flow as such increase promotes market depth, facilitates tighter spreads, enhances price discovery, and may attract additional liquidity and volume to the Exchange. For these reasons, the Exchange does not believe that its proposal will place any category of Exchange market participant at a competitive disadvantage.

Inter-Market Competition

The Exchange operates in a highly competitive market in which market participants can readily favor one of 16 competing options exchanges 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 and rebates to remain competitive with other exchanges and to attract order flow to the Exchange. Because competitors are free to modify their own fees and rebates in response, the Exchange believes that the degree to which pricing changes in this market may impose any burden on competition is extremely limited.

Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and rebate changes. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the 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.[24]

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–Phlx–2019–48 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2019–48. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2019–48 and should be submitted on or before December 11, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–25103 Filed 11–19–19; 8:45 am]

**BILLING CODE 8011–01–P**

[24] 15 U.S.C. 78s(b)(3)(A)(ii).

[25] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 33683; 812–14364]**

## Fidelity Beach Street Trust, et al.; Notice of Application

November 14, 2019.

**AGENCY:** Securities and Exchange Commission (''Commission'').

**ACTION:** Notice of an application for exemptive relief.

**SUMMARY OF APPLICATION:** Applicants request an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. If granted, the requested order would permit registered open-end investment companies that are exchange-traded funds (''ETFs'') and are actively managed to operate without being subject to a daily portfolio transparency condition.

**APPLICANTS:** Fidelity Management & Research Company and FMR Co., Inc. (collectively, ''FMR''); Fidelity Beach Street Trust (the ''Trust''); and Fidelity Distributors Corporation.

**FILING DATES:** The application was filed on September 26, 2014, and amended on January 26, 2018, May 18, 2018, August 8, 2018, April 30, 2019, June 7, 2019, July 16, 2019, October 15, 2019, October 22, 2019 and November 8, 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 December 9, 2019, and should be accompanied by proof of service on Applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants: Fidelity Beach Street Trust, Fidelity Management & Research Company, FMR Co., Inc., and Fidelity Distributors Corporation, 245 Summer Street, Boston, Massachusetts 02210.

**FOR FURTHER INFORMATION CONTACT:** Bradley Gude, Senior Counsel; Andrea Ottomanelli Magovern, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

**I. Introduction**

1. Applicants seek to introduce a novel type of actively-managed ETF that would not be required to disclose its portfolio holdings on a daily basis (each, a ''Fund''). Due to their characteristics, ETFs (including those proposed by Applicants) are only permitted to operate in reliance on Commission exemptive relief from certain provisions

of the Act and rules thereunder.[1] Accordingly, Applicants seek an order: Under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 thereunder; under sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and 17(a)(2) of the Act; and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and (B) of the Act. The requested order would permit: (a) The Funds to issue shares (''Shares'') redeemable in large aggregations only (''creation units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of creation units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (''Investing Funds'') to acquire Shares of the Funds.

2. Section 6(c) allows the Commission to exempt any person, security, or transaction, or any class thereof, only ''if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of [the Act].'' As discussed below, the Commission believes that the Funds meet the standard for exemptive relief under section 6(c) of the Act.[2] Accordingly, the Commission intends to grant the requested relief.

## II. Background

### *A. Open-End Investment Companies and Net Asset Value*

3. The Act defines an investment company as an ''issuer'' of ''any security'' which ''is or holds itself out as being engaged primarily . . . in the business of investing . . . in securities.'' [3] Shares in an investment company represent proportionate interests in its investment portfolio, and their value fluctuates in relation to the changes in the value of that portfolio.

4. The most common form of investment company, the ''open-end'' investment company or mutual fund, is required by law to redeem its securities on demand at a price approximating the securities' proportionate share of the fund's NAV at the time of redemption.[4] These funds also continuously issue and sell new shares, thereby replenishing their investment capital.

5. Because open-end investment companies are required by law to redeem their shares based on investors' demands, shares of the funds have historically not traded on exchanges or in other secondary markets.[5]

### *B. Exemptions Under the Act for Actively Managed ETFs*

6. ETFs, including those proposed by Applicants, are a type of open-end fund. But unlike traditional open-end funds, ETFs are made available to investors primarily through secondary market transactions on exchanges.

7. In order for this to take place, ETFs require various exemptions from the provisions of the Act and the rules thereunder. Critically, in granting such exemptions to date, the Commission has required that a mechanism exist to ensure that ETF shares would trade at a price that is at or close to the NAV per share of the ETF.[6]

8. Such a mechanism is essential for ETFs to operate because ETFs do not sell or redeem their individual shares at NAV per share as required by the Act. Instead, large broker-dealers that have contractual arrangements with an ETF (each, an ''Authorized Participant'') purchase and redeem ETF shares directly from the ETF, but only in large blocks called ''creation units.'' Traditionally, an Authorized Participant that purchases a creation unit of ETF shares first deposits with the ETF a ''basket'' of securities and other assets (*e.g.,* cash) identified by the ETF that day, and then receives the creation unit of ETF shares in return for those assets. The basket is generally representative of the ETF's portfolio and is equal in value to the aggregate NAV of ETF shares in the creation unit. After purchasing a creation unit, the Authorized Participant may sell the component ETF shares in secondary market transactions. Investors then purchase individual shares in the secondary market. The redemption process is the reverse of the purchase process: the Authorized Participant acquires a creation unit of ETF shares and redeems it for a basket of securities and other assets.

9. The combination of the creation and redemption process with the secondary market trading in ETF shares provides arbitrage opportunities that are designed to help keep the market price of ETF shares at or close to the NAV per share of the ETF.[7] For example, if ETF shares begin trading on national securities exchanges at a ''discount'' (a price below the estimated intraday NAV per share of the ETF), an Authorized Participant can purchase ETF shares in secondary market transactions and, after accumulating enough shares to comprise a creation unit, redeem them from the ETF in exchange for the more valuable securities and other assets in the ETF's redemption basket. In addition to purchasing ETF shares, Authorized Participants also are likely to hedge their intraday risk. Thus, for example, when ETF shares are trading at a discount to the estimated intraday NAV per share of the ETF, an Authorized Participant may also simultaneously short the securities in the ETF's redemption basket. At the end of the day, the Authorized Participant will return the creation unit of ETF shares to the ETF in exchange for the ETF's basket assets, and use such assets to cover its short positions. Those purchases reduce the supply of ETF shares in the market, and thus tend to drive up the market price of the shares to a level closer to the NAV per share of the ETF.[8]

10. Conversely, if the market price for ETF shares reflects a ''premium'' (a price above the estimated intraday NAV per share of the ETF), an Authorized Participant can deposit a basket of securities and other assets in exchange for the more valuable creation unit of ETF shares, and then sell the individual

[1] The Commission first granted exemptive relief to operate ETFs in the early 1990s when the first index-based ETFs were developed. *See* SPDR Trust Series I, Investment Company Act Release Nos. 18959 (Sept. 17, 1992) (notice) and 19055 (Oct. 26, 1992) (order). *See generally* Exchange Traded Funds, Investment Company Act Release No. 33646 (Sept. 25, 2019) (''ETF Rule Adopting Release''), at section I. The Commission has also granted ETFs exemptive relief from Sections 12(d)(1)(A) and (B) of the Act. *See generally* Fund of Funds Arrangements, Investment Company Act Release No. 33329 (Dec. 19, 2018).

[2] *See infra* section IV for a discussion of all the relief requested by Applicants, including relief under sections 17(b) and 12(d)(1)(J) of the Act.

[3] 15 U.S.C. 80a–3(a); 80a–3(a)(1).

[4] *See* section 22(d) and rule 22c–1; *see also infra* section IV.A (discussing section 22(d) and rule 22c–1).

[5] This stems from section 22(d) of the Act, which in effect fixes the prices at which redeemable securities, including open-end shares, are sold. The result is a system that precludes dealers from making a secondary market in open-end shares.

[6] This has been a required representation in all ETF orders since the Commission issued the first order. *See supra* note 1.

[7] *See* Investment Company Institute, *2019 Investment Company Fact Book* (2019), at 88–89; ETF Rule Adopting Release, *supra* note 1, at note 31 and accompanying text.

[8] The Authorized Participant's purchase of the ETF shares in the secondary market, combined with the sale of the redemption basket securities, may also create upward pressure on the price of ETF shares and/or downward pressure on the price of redemption basket securities, driving the market price of ETF shares and the value of the ETF's portfolio holdings closer together.

shares in the market to realize its profit.[9] An Authorized Participant also is likely to hedge its intraday risk when ETF shares are trading at a premium. Thus, for example, when the shares of an ETF are trading at a premium, an Authorized Participant may buy the securities in the ETF's purchase basket in the secondary market and sell short the ETF shares. At the end of the day, the Authorized Participant will deposit the basket assets in exchange for a creation unit of ETF shares, which it will then use to cover its short positions. The Authorized Participant will receive a profit from having paid less for the ETF shares than it received for the assets in the purchase basket. These transactions would increase the supply of ETF shares in the secondary market, and thus tend to drive down the price of ETF shares to a level closer to the NAV per share of the ETF.

11. Market participants can also engage in arbitrage activity without using the creation or redemption processes described above. For example, if a market participant believes that an ETF is overvalued relative to its underlying or reference assets (*i.e.,* trading at a premium), the market participant may sell ETF shares short and buy the underlying or reference assets, wait for the trading prices to move toward parity, and then close out the positions in both the ETF shares and the underlying or reference assets to realize a profit from the relative movement of their trading prices. Similarly, a market participant could buy ETF shares and sell the underlying or reference assets short in an attempt to profit when an ETF's shares are trading at a discount to the ETF's underlying or reference assets. As discussed above, this type of trading of an ETF's shares and the ETF's underlying or reference assets may bring the prices of the ETF's shares and its portfolio assets closer together through market pressure.

12. In assessing whether to grant exemptive relief to actively managed ETFs in the past, the Commission has required a mechanism that would keep the market prices of ETF shares at or close to the NAV per share of the ETF.[10] This close tie between market price and NAV per share of the ETF is the foundation for why the prices at which retail investors buy and sell ETF shares are similar to the prices at which Authorized Participants are able to buy and redeem shares directly from the ETF at NAV. In granting relief from section 22(d) of the Act and rule 22c-1 under the Act, the Commission relies on this close tie between what retail investors pay and what Authorized Participants pay to make the finding that the ETF's shareholders are being treated equitably when buying and selling shares.[11]

## III. The Application

### *A. The Applicants*

13. The Trust is organized as a business trust under the laws of the Commonwealth of Massachusetts and is registered with the Commission as an open-end management investment company. Fidelity Management & Research Company or FMR Co., Inc., each a Massachusetts corporation registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''), would serve as the investment adviser to the initial Funds. Fidelity Distributors Corporation, a Massachusetts corporation, is a registered broker-dealer under the Securities Exchange Act of 1934, as amended (''Exchange Act''), and will act as distributor and principal underwriter of the Funds.

### *B. Applicants' Proposal*

14. Applicants seek exemptive relief under section 6(c) to allow them to introduce actively-managed Funds that would not disclose their portfolio holdings on a daily basis.[12] Applicants maintain that operating the Funds as fully-transparent actively-managed ETFs would make the Funds susceptible to ''front running'' and ''free riding'' by other investors and/or managers, which can harm, and result in substantial costs to, the Funds and their shareholders.[13]

15. Applicants believe that the Funds would allow investors to access active investment strategies offered by certain investment advisers that are currently only available via mutual funds, while also taking advantage of the traditional benefits of ETFs (*e.g.,* lower fund costs, tax efficiencies and intraday liquidity).

16. Applicants state that the relief in the application is similar to the relief granted in exemptive orders issued to existing actively managed ETFs, except for certain differences permitting the Funds to operate on a non-transparent basis.[14] These material differences are discussed below.

a. *Tracking Basket.* Each day a Fund would publish a basket of securities and cash that, while different from the Fund's portfolio, is designed to closely track its daily performance (the ''Tracking Basket'').[15] In addition, every day the Fund would disclose the percentage weight overlap between the holdings of the prior business day's Tracking Basket compared to the holdings of the Fund that formed the basis for the Fund's calculation of NAV at the end of the prior business day (the ''Tracking Basket Weight Overlap''). Such number would help market participants evaluate the risk that the performance of the Tracking Basket may deviate from the performance of the portfolio holdings of a Fund.

Applicants state that the Tracking Basket would serve as a pricing and hedging tool for market participants to identify and take advantage of arbitrage opportunities. Because the Tracking Basket would be designed to closely track the daily performance of the Fund's holdings, the Tracking Basket would serve to estimate the value of those holdings. For the same reason, trading the Tracking Basket would allow market participants to get exposure to the performance of the Fund's holdings, so that a Fund's Tracking Basket could serve to hedge a position in the Fund's Shares. Further, the Tracking Basket would serve as the creation/redemption

[9] The Authorized Participant's purchase of the basket assets, combined with the sale of ETF shares, may also create downward pressure on the price of ETF shares, upward pressure on the price of purchase basket securities, or both, bringing the market price of ETF shares and the value of the ETF's portfolio holdings closer together.

[10] Until recently, the Commission only approved a mechanism dependent on daily portfolio transparency. *See generally* ETF Rule Adopting Release, *supra* note 1, at section II.C.4. Last May, the Commission issued an order granting relief to actively managed ETFs that, like the Funds, do not disclose their complete portfolio holdings on a daily basis. *See* Precidian ETFs Trust, *et al.,* Investment Company Act Release No. 33440 (Apr. 8, 2019) (the ''Precidian Notice'') and 33477 (May 20, 2019) (the ''Precidian Order''). Applicants' proposed arbitrage mechanism differs from that in the Precidian Order.

[11] *See supra* note 4 and accompanying text.

[12] Applicants request that the order apply to series of the Trust identified and described in the application as well as to additional series of the Trust and any other open-end management investment company or series thereof that seek to rely on the relief requested in the application, each of which will operate as an actively-managed ETF. Any Fund will: (a) Be advised by Fidelity Management & Research Company, FMR Co., Inc., or an entity controlling, controlled by, or under common control with Fidelity Management & Research Company or FMR Co., Inc. (each such entity and any successor thereto is included in the term ''Adviser''); and (b) comply with the terms and conditions of the application. The Adviser may retain one or more sub-advisers (each a ''Sub-Adviser'') for the Funds. Any Sub-Adviser will be registered under the Advisers Act. For purposes of the requested order, the term ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[13] *See* application at 15 and 30.

[14] *Cf.* Precidian Order *supra* note 10.

[15] The Funds would, at a minimum, provide the quarterly portfolio disclosures required for mutual funds. *See* rule 30b1–9 under the Act and Form N–PORT.

basket when Authorized Participants exchange creation units with the Fund.

Also in order to facilitate arbitrage, each Fund's portfolio and Tracking Basket will only include certain securities that trade on an exchange contemporaneously with the Fund's Shares.[16] Because the securities would be exchange traded, market participants would be able to accurately price and readily trade the securities in the Tracking Basket for purposes of assessing the intraday value of the Fund's portfolio holdings and to hedge their positions in the Fund's shares.[17]

b. *Arbitrage Transactions in the Funds.* Applicants state that, given the correlation between a Fund's Tracking Basket and its portfolio holdings, the Tracking Basket would serve as a pricing signal to identify arbitrage opportunities when its value and the secondary market price of the Shares diverge. If Shares began trading at a discount to the Tracking Basket, an authorized participant could purchase the Shares in secondary market transactions and, after accumulating enough Shares to comprise a creation unit, redeem them from the Fund in exchange for a redemption basket reflecting the NAV per share of the Fund's portfolio holdings.[18] The purchases of Shares would reduce the supply of Shares in the market, and thus tend to drive up the Shares' market price closer to the Fund's NAV.[19] Alternatively, if Shares are trading at a premium, the transactions in the arbitrage process are reversed.

Applicants further state that, like with traditional ETFs, market participants also can engage in arbitrage without using the creation or redemption processes.[20] For example, if a Fund is trading at a premium to the Tracking Basket, the market participant may sell Shares short and take a long position in the Tracking Basket securities, wait for the trading prices to move toward parity, and then close out the positions in both the Shares and the securities, to realize a profit from the relative movement of their trading prices. Similarly, a market participant could buy Shares and take a short position in the Tracking Basket securities in an attempt to profit when Shares are trading at a discount to the Tracking Basket.

c. *Protective conditions.* Applicants have agreed to comply with certain conditions in addition to those included in prior ETF exemptive orders.[21] First, the Funds will provide certain public disclosures to explain to investors how they differ from traditional ETFs and inform investors that the Funds' bid-ask spreads and premiums/discounts may be larger than those for traditional ETFs due to the lack of transparency, thus making trading in the Funds' Shares more expensive. The Funds will also disclose that market participants may attempt to reverse engineer a Fund's trading strategy, which, if successful, could increase opportunities for trading practices that may disadvantage the Fund and its shareholders.[22] Each Fund will include a legend (the ''Legend'') in a prominent location on the outside cover page of its prospectus, as well as on its website and any marketing materials, that will highlight for investors the differences between the Funds and fully transparent actively managed ETFs and the above costs and risk.[23] Unless otherwise requested by the staff of the Commission, the Legend will read as follows:

> This ETF is different from traditional ETFs.
>
> Traditional ETFs tell the public what assets they hold each day. This ETF will not. This may create additional risks for your investment. For example:
>
> • You may have to pay more money to trade the ETF's shares. This ETF will provide less information to traders, who tend to charge more for trades when they have less information.
>
> • The price you pay to buy ETF shares on an exchange may not match the value of the ETF's portfolio. The same is true when you sell shares. These price differences may be greater for this ETF compared to other ETFs because it provides less information to traders.
>
> • These additional risks may be even greater in bad or uncertain market conditions.
>
> • The ETF will publish on its website each day a ''Tracking Basket'' designed to help trading in shares of the ETF. While the Tracking Basket includes some of the ETF's holdings, it is not the ETF's actual portfolio.
>
> The differences between this ETF and other ETFs may also have advantages. By keeping certain information about the ETF secret, this ETF may face less risk that other traders can predict or copy its investment strategy. This may improve the ETF's performance. If other traders are able to copy or predict the ETF's investment strategy, however, this may hurt the ETF's performance.
>
> For additional information regarding the unique attributes and risks of the ETF, see section [ ] below.

17. Second, Applicants will comply with the requirements of Regulation Fair Disclosure (''Reg. FD'') as if it applied to them, thus prohibiting the Fund's selective disclosure of any material nonpublic information.[24] Because the Funds will not publicly disclose their portfolio holdings daily, the selective disclosure of material nonpublic information, including information other than portfolio information, would be more likely to provide an unfair

[16] Each Fund may invest only in ETFs, Exchange-traded notes, Exchange-traded common stocks, common stocks listed on a foreign exchange that trade on such exchange contemporaneously with the Shares, Exchange-traded preferred stocks, Exchange-traded American depositary receipts, Exchange-traded real estate investment trusts, Exchange-traded commodity pools, Exchange-traded metals trusts, Exchange-traded currency trusts, and exchange-traded futures that trade contemporaneously with the Shares, as well as cash and cash equivalents. For purposes of the application, exchange-traded futures are U.S. listed futures contracts where the futures contract's reference asset is an asset that the Fund could invest in directly, or in the case of an index future, is based on an index of a type of asset that the Fund could invest in directly. All futures contracts that a Fund may invest in will be traded on a U.S. futures exchange. For these purposes, an ''Exchange'' is a national securities exchange as defined in section 2(a)(26) of the Act. No Fund will invest in a ''penny stock'' as defined in Exchange Act Rule 3a51–1, borrow for investment purposes, hold short positions, or purchase any security that is illiquid at the time of purchase. The Tracking Basket will be subject to the same limitations.

[17] A Fund's Tracking Basket may include ''Representative ETFs,'' which would be U.S. exchange-traded ETFs selected for inclusion in the Tracking Basket such that, when aggregated with the other Tracking Basket components, the Tracking Basket corresponds to the Fund's overall holdings exposures. As such, a Fund may receive Representative ETFs in the basket of securities it exchanges for a creation unit of its shares. On account of this use of Representative ETFs, Applicants are asking for a minor modification of a standard condition of the Commission's fund of funds relief. *See infra* note 37.

[18] In addition to purchasing Shares, an authorized participant also would likely hedge its intraday risk by shorting the securities in the Tracking Basket (the same as in the redemption basket) in an amount corresponding to its long position in Shares. After the authorized participant returns a creation unit to the Fund in exchange for a redemption basket, the authorized participant can use the basket securities to cover its short positions. *Cf. supra* note 8.

[19] The purchase of the Shares in the secondary market, combined with the sale of the redemption basket securities, may also drive the market price of Shares and the value of the Fund's portfolio holdings closer together. *See supra* note 8.

[20] *See supra* paragraph 11.

[21] These are substantially the same as conditions included in the Precidian Order. See Precidian Notice *supra* note 10, at paragraph 17(d).

[22] *See* application at 24.

[23] *See* application at 23–25; 53.

[24] *See* 17 CFR 243. ETFs are not otherwise subject to Reg. FD. The federal securities laws and an investment adviser's fiduciary duties permit the disclosure of an ETF's nonpublic portfolio information to selected third parties only when the ETF has legitimate business purposes for doing so and the recipients are subject to a duty of confidentiality, including a duty not to trade on the nonpublic information. *See* Exchange Traded Funds, Investment Company Act Release No. 33140 (Jun. 28, 2018), at text accompanying notes 225–226 (proposing rule 6c–11 and discussing Reg. FD). Reg. FD's Rule 100(b)(2)(iii) exempts from Reg. FD certain communications made in connection with a securities offering registered under the Securities Act. Applicants would not rely on this exemption; as the Funds will be continuously offered, this exemption would likely make the condition requiring Applicants to comply with Reg. FD meaningless.

advantage to the recipient than in other ETFs.

18. Third, the Funds and their Adviser will take remedial actions as necessary if the Funds do not function as anticipated. For the first three years after launch, a Fund will establish certain thresholds for its level of Tracking Error,[25] premiums/discounts, and spreads, so that, upon the Fund's crossing a threshold, the Adviser will promptly call a meeting of the Fund's board of directors, or a designated committee thereof,[26] and will present the board or committee with recommendations for appropriate remedial measures.[27] The board or committee would then consider the continuing viability of the Fund, whether shareholders are being harmed, and what, if any, action would be appropriate.[28] In addition, Applicants have agreed to provide to Commission staff on a periodic basis certain metrics and other such information as the staff may request in order to facilitate the staff's ongoing monitoring of the Funds.[29]

## IV. Requested Exemptive Relief

19. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

20. Applicants' request for relief is novel only under section 22(d) and rule 22c–1 due to the proposed alternative arbitrage mechanism. In all other respects, Applicants are seeking relief that the Commission has previously granted to existing ETFs. As discussed above, the requested relief would be available to any open-end investment company that is an actively-managed ETF operating in compliance with the terms and conditions of the order and that is advised by an Adviser.[30]

21. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general purposes of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

### *A. Novel Relief Under Section 22(d) and Rule 22c–1*

22. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through a principal underwriter other than at a current public offering price described in the fund's prospectus. Rule 22c–1 under the Act requires open-end funds, their principal underwriters, and dealers in fund shares (and certain others) to sell and redeem fund shares at a price based on the current NAV next computed after receipt of an order to buy or redeem.

23. Together, section 22(d) and rule 22c–1 are designed to: (i) Prevent dilution caused by certain riskless trading practices of principal underwriters and dealers; (ii) prevent unjust discrimination or preferential treatment among investors purchasing and redeeming fund shares; and (iii) preserve an orderly distribution of investment company shares.[31]

24. Applicants believe that none of these concerns will be raised by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that secondary market trading in Shares does not involve the Funds as parties and cannot result in dilution of an investment in Shares, and to the extent different prices for Shares exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, Applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, Applicants state that the proposed distribution system will be orderly because anyone will be able to sell or acquire Shares on an exchange and arbitrage activity should ensure that secondary market transactions occur at prices at or close to the Fund's NAV.

25. In considering relief from section 22(d) and rule 22c–1 for ETFs, the Commission has focused on whether the ETFs' arbitrage mechanism addresses the concerns underlying those provisions. The Commission believes that the alternative arbitrage mechanism proposed by Applicants can work in an efficient manner to maintain a Fund's secondary market prices close to its NAV.[32] The Commission recognizes, however, that the lack of full transparency may cause the Funds to trade with spreads and premiums/discounts that are larger than those of

[25] ''Tracking Error'' is the standard deviation over the past three months of the daily proxy spread (*i.e.,* the difference, in percentage terms, between the Tracking Basket's per share NAV and that of the Fund at the end of the trading day).

[26] The requirement to call a meeting of the board or committee promptly after reaching a threshold will be met if the Adviser makes the required communications, and the board or committee undertakes the considerations specified in the application, during the applicable time period but in advance of the threshold actually being reached.

[27] *See* application at 25–26. For the first three years after launch of a Fund, its board or committee would promptly meet (1) if the Tracking Error exceeds 1%; or (2) if, for 30 or more days in any quarter or 15 days in a row (a) the absolute difference between either the market closing price or Bid/Ask Price, on one hand, and NAV, on the other, exceeds 2%, or (b) the bid/ask spread exceeds 2%. A Fund may adopt additional or lower (*i.e.,* less than 1% for the Tracking Error or less than 2% for the others) thresholds to the extent deemed appropriate and approved by the Fund's board or a designated committee thereof.

[28] For at least three years after launch of each Fund, the Board will also undertake these considerations on an annual basis, regardless of whether the Fund's preset thresholds have been crossed. Potential actions may include, but are not limited to, changing lead market makers, listing the Fund on a different exchange, changing the size of creation units, modifications to the Tracking Basket process, changing the Fund's investment objective or strategy, and liquidating the Fund. *See* application at 25.

[29] *See* application at 54, condition 7.

[30] Applicants request that the terms and conditions of the requested order apply to other registered open-end management investment companies or series thereof not advised by the Adviser (''Licensed Funds''). Applicants anticipate that the Adviser or an affiliate thereof would enter into license agreements with the registered investment advisers advising the Licensed Funds (together with the Licensed Funds, the ''Future Applicants''). Applicants further expect that Future Applicants would apply for a separate exemptive order that incorporates by reference all the terms and conditions of the requested order and any amendments thereto. *See* application at 2. *See also* Precidian Notice *supra* note 10, at note 41 and in re Eaton Vance Management, et al., File No. 812–14139, Fourth Amendment, filed Sept. 25, 2014; Investment Company Act Rel. No. 31333 (Nov. 6, 2014) (notice), Investment Company Act Rel. No. 31361 (Dec. 2, 2014) (order). *See also, e.g.,* in re American Beacon Nextshares Trust, et al., File No. 812–14417, First Amendment, filed Feb. 23, 2015; Investment Company Act Rel. No. 31498 (Mar. 6, 2015) (notice); Investment Company Act Rel. No. 31542 (Apr. 1, 2015) (order).

[31] *See* ETF Rule Adopting Release, *supra* note 1, at text accompanying note 116.

[32] *See supra* paragraph 16(b).

comparable, fully transparent ETFs.[33] Nonetheless, as long as arbitrage continues to keep the Fund's secondary market price and NAV close, and does so efficiently so that spreads remain narrow, the Commission believes that investors would benefit from the opportunity to invest in active strategies through a vehicle that offers the traditional benefits of ETFs.[34]

*B. Other Relief*

26. The additional exemptive relief Applicants seek is relief routinely granted to ETFs, and does not raise novel issues on account of the lack of daily portfolio transparency.

27. *Sections 5(a)(1) and 2(a)(32) of the Act.* First, because the Shares will not be individually redeemable, Applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue Shares that are redeemable in creation units only.

28. *Section 22(e) of the Act.* Second, Applicants seek relief from section 22(e) to permit Funds to satisfy redemption requests more than seven days from the tender of Shares for redemption with respect to foreign securities where the settlement cycle, coupled with local holiday schedules, would not permit a Fund to satisfy redemption requests within the seven days required under section 22(e) of the Act. A Fund would deliver the foreign securities as soon as practicable, but in no event later than 15 days after the tender of Shares.

29. *Sections 17(a)(1) and (2) of the Act.* Second, Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are affiliated persons, or second-tier affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of creation units and the redemption procedures for in-kind redemptions of creation units will be the same for all purchases and redemptions and basket securities will be valued in the same manner as those portfolio securities currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its Shares to and redeem its Shares from an Investing Fund, and to engage in the accompanying in-kind transactions with the Investing Fund.[35] The purchase of creation units by an Investing Fund directly from a Fund will be accomplished in accordance with the policies of the Investing Fund and will be based on the NAVs of the Funds.

30. *Section 12(d)(1) of the Act.* Third, Applicants request an exemption to permit Investing Funds to acquire Fund Shares beyond the limits of section 12(d)(1)(A) of the Act and permit the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell Fund Shares to Investing Funds beyond the limits of section 12(d)(1)(B) of the Act.[36] The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

*C. Consideration of Possible Concerns Relating to the Requested Relief*

31. As part of our review, we have considered possible concerns regarding the requested relief, including, among others, concerns related to the proposed arbitrage mechanism, the use of Tracking Baskets, and reverse engineering, as discussed below. We believe, however, that the Applicants' proposed terms and conditions sufficiently address such concerns.

32. *Proposed Arbitrage Mechanism.* One possible concern is that the proposed arbitrage mechanism may not facilitate effective arbitrage, which could result in significant deviations between the secondary market price and NAV per share of a Fund. We believe that the proposed arbitrage mechanism can work in an efficient manner to maintain secondary market prices of Shares close to their NAV while providing investors with the opportunity to invest in active strategies through a vehicle that offers the traditional benefits of ETFs.[37] In addition, to the extent that the Funds do not function as anticipated, Applicants have undertaken to take remedial actions as appropriate.[38]

33. *Use of Tracking Baskets.* Applicants have also addressed possible implications of using a Tracking Basket as an arbitrage mechanism. First, Applicants note that a Fund's Tracking Basket would not misrepresent the Fund's holdings or cause investor confusion.[39] To that effect, the Funds would provide disclosures in their prospectus, marketing materials and website clearly indicating the Tracking Basket's purpose and that it is not the Fund's portfolio holdings.[40] Second, Applicants state that they would design their Tracking Basket so that arbitrageurs' trading will not have a significant market impact on the securities in the Tracking Basket, in particular those that a Fund does not hold for investment purposes.[41]

34. *Reverse Engineering.* A third possible concern is that other market participants may be able to reverse engineer current activity in a Fund's holdings and use such information to the disadvantage of the Fund, Authorized Participants and shareholders. Applicants have represented that they will operate the Funds in a manner designed to

[33] The performance of a Fund's Tracking Basket and portfolio holdings may deviate to some extent, which would make market participants' estimates of the profitability of their arbitrage transactions less precise. To account for this possibility, market participants would likely require wider spreads to trade Shares.

[34] Investors will have the information necessary to compare the costs associated with investing in the Funds with the costs of investing in other ETFs and mutual funds. *See* Item 3 of Form N–1A; condition 2. *Cf.* ETF Rule Adopting Release, *supra* note 1, at text following note 119 (noting that for fully transparent ETFs, ''under certain circumstances, including during periods of market stress, the arbitrage mechanism may work less effectively for a period of time,'' but that ''on balance, . . . investors are more likely to weigh the potential benefits of ETFs (*e.g.,* low cost and intraday trading) against any potential for market price deviations when deciding whether to utilize ETFs.'' *Cf.* Precidian Notice *supra* note 10, at 19–20.

[35] The requested relief would apply to direct sales of shares in creation units by a Fund to an Investing Fund and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or a second-tier affiliate, of an Investing Fund because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Investing Fund.

[36] Applicants requested a modification to a standard condition of the Commission's fund of funds relief that would prohibit the Funds from themselves investing in another registered investment company beyond the section 12(d)(1) limits. Applicants require this modification to permit a Fund to acquire Representative ETFs beyond the limits of section 12(d)(1) solely for the purpose of effecting transactions in creation units. *See infra* condition 21.

[37] *See supra* paragraphs 15 and 16.

[38] *See supra* paragraph 18.

[39] *See* application at 32–33.

[40] *See* application at 33. In addition, every day the Funds would disseminate the Tracking Basket Weight Overlap, which would inform market participants as to the degree to which the Tracking Basket and the Fund's portfolio actually differ. *See* application at 12 and 33.

[41] Specifically, the Funds expect to include in the Tracking Basket only assets that are liquid and have a high trading volume. *See* application at 31. Further, Applicants note that their proposed use of a Tracking Basket is not novel in this respect. Currently, arbitrageurs for fully-transparent ETFs may use securities that are not in the ETFs' portfolio to hedge their positions in the ETFs' shares. *See* application at 31–32.

minimize the risk of reverse engineering and we anticipate that the Funds will have the ability to minimize such risk.[42] Indeed, we note that the Applicants have a significant incentive to minimize this risk, considering that the purpose of their proposed arbitrage mechanism is to facilitate the operation of ETFs that limit the ETFs' susceptibility to predatory trading practices, like ''front running'' and ''free riding.'' [43]

**V. Applicants' Conditions** [44]

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

*A. ETF Relief*

1. As long as a Fund operates in reliance on the requested order, the Shares of the Fund will be listed on an exchange.

2. The website for the Funds, which is and will be publicly accessible at no charge, will contain, on a per Share basis, for each Fund the prior business day's NAV and market closing price or Bid/Ask Price of the Shares, a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV, and any other information regarding premiums and discounts as may be required for other ETFs under rule 6c–11 under the Act, as amended. The website will also disclose any information regarding the bid-ask spread for each Fund as may be required for other ETFs under rule 6c–11 under the Act, as amended.

3. Each Fund will include the Legend in a prominent location on the outside cover page of its prospectus, as well as on its website and any marketing materials.

4. On each business day, before the commencement of trading of Shares, each Fund will publish on its website the Tracking Basket and the Tracking Basket Weight Overlap for that day.

5. No Adviser or Sub-Adviser, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any deposit instrument for a Fund through a transaction in which the Fund could not engage directly.

6. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of actively managed ETFs that disclose a proxy portfolio on each business day, without fully disclosing the ETF's entire portfolio at the same time.

7. Each Fund will provide the Commission staff with periodic reports (for which confidential treatment may be requested) containing such information as the Commission staff may request.

8. Each Fund and each person acting on behalf of a Fund will comply with and agree to be subject to the requirements of Regulation Fair Disclosure as if it applied to them (except that the exemptions provided in Rule 100(b)(2)(iii) therein shall not apply).

9. Each Fund will maintain and preserve, for a period of not less than five years, in an easily accessible place, (i) all written agreements (or copies thereof) between an Authorized Participant and the Fund or one of its service providers that allows the Authorized Participant to place orders for the purchase or redemption of creation units; (ii) a copy of the Tracking Basket published on the Fund's website for each business day; and (iii) a list of all creation or redemption baskets exchanged with an Authorized Participant where cash was included in the basket *in lieu* of some or all of the Tracking Basket securities (except for cash included because the securities are not eligible for trading by the Authorized Participant or the investor on whose behalf the Authorized Participant is acting), the amount of any such cash *in lieu* and the identity of the Authorized Participant conducting the transaction.

*B. Section 12(d)(1) Relief*

10. The members of the Investing Fund's Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of the Investing Fund's Sub-Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Investing Fund's Advisory Group or the Investing Fund's Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Investing Fund's Sub-Advisory Group with respect to a Fund for which the Investing Fund Sub-Adviser or a person controlling, controlled by or under common control with the Investing Fund Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

11. No Investing Fund or Investing Fund Affiliate will cause any existing or potential investment by the Investing Fund in a Fund to influence the terms of any services or transactions between the Investing Fund or an Investing Fund Affiliate and the Fund or a Fund Affiliate.

12. The board of directors or trustees of an Investing Management Company, including a majority of the independent directors or trustees, will adopt procedures reasonably designed to ensure that the Investing Fund Adviser and any Investing Fund Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or an Investing Fund Affiliate from a Fund or a Fund Affiliate in connection with any services or transactions.

13. Once an investment by an Investing Fund in the Shares of a Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, the Board of a Fund, including a majority of the independent directors or trustees, will determine that any consideration paid by the Fund to the Investing Fund or an Investing Fund Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

14. The Investing Fund Adviser, or Trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Investing Fund in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–l under the Act) received from a Fund by the Investing Fund Adviser, or Trustee

[42] Our Division of Economic Research and Analysis (''DERA'') considered whether the current activity in a Fund's holdings could be reverse engineered and concluded that the answer depends on the specifics of each Fund, including the size of the Fund's universe of potential portfolio selections, the mechanics of how the Fund's Tracking Basket is constructed in relationship to the Fund's portfolio holdings, the type of information disclosed about the Fund's portfolio holdings, and the degree of overlap between the Fund's Tracking Basket and its portfolio holdings. The Funds would disclose this risk to investors. *See* application at 24.

[43] *See* application at 30.

[44] Capitalized terms not otherwise defined herein shall have the same meaning as in the application.

or Sponsor, or an affiliated person of the Investing Fund Adviser, or Trustee or Sponsor, other than any advisory fees paid to the Investing Fund Adviser, or Trustee or Sponsor, or its affiliated person by the Fund, in connection with the investment by the Investing Fund in the Fund. Any Investing Fund Sub-Adviser will waive fees otherwise payable to the Investing Fund Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Investing Fund Sub-Adviser, or an affiliated person of the Investing Fund Sub-Adviser, other than any advisory fees paid to the Investing Fund Sub-Adviser or its affiliated person by the Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Investing Fund Sub-Adviser. In the event that the Investing Fund Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

15. No Investing Fund or Investing Fund Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an Affiliated Underwriting.

16. The Board of a Fund, including a majority of the independent directors or trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Investing Fund in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

17. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

18. Before investing in a Fund in excess of the limits in section 12(d)(1)(A), an Investing Fund will execute a FOF Participation Agreement with the Fund stating that their respective boards of directors or trustees and their investment advisers, or Trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), an Investing Fund will notify the Fund of the investment. At such time, the Investing Fund will also transmit to the Fund a list of the names of each Investing Fund Affiliate and Underwriting Affiliate. The Investing Fund will notify the Fund of any changes to the list as soon as reasonably practicable after a change occurs. The Fund and the Investing Fund will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

19. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company, including a majority of the independent directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Investing Management Company.

20. Any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in FINRA Rule 2341.

21. No Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except (i) to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes; and (ii) in connection with a Fund's receipt of Representative ETFs included in its Tracking Basket solely for purposes of effecting transactions in Creation Units.[45]

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–87540; File No. SR–FINRA–2019–028]**

## Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Allow FINRA To Publish or Distribute Aggregated Transaction Information and Statistics on U.S. Treasury Securities

November 14, 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 November 12, 2019, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II,

[45] If the Commission rescinds the Section 12(d)(1) Relief in connection with the adoption of a rule providing similar relief, but that would not, in substance, make the exception in this subparagraph (ii) available, such exception will nonetheless continue be available with respect to such rule to a Fund relying on the requested ETF Relief, unless the Commission provides otherwise with specific reference to the Applicants.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

FINRA is proposing to amend FINRA Rule 6750 to provide that FINRA may publish or distribute aggregated transaction information and statistics on U.S. Treasury Securities.

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Rule 6750 (Dissemination of Transaction Information) (the ''Rule'') generally provides for the dissemination of information on all transactions in TRACE-Eligible Securities [3] immediately upon receipt of the transaction report,[4] except as set forth in the Rule. Rule 6750(c) (Transaction Information Not Disseminated) specifies that FINRA will not disseminate information on a transaction in a U.S. Treasury Security, among others.[5]

Supplementary Material .01 to Rule 6750 provides that, even where a TRACE-Eligible Security is not subject to trade-by-trade dissemination, FINRA may nonetheless publish or distribute aggregated transaction information and statistics on the security, other than with respect to transactions in U.S. Treasury Securities.[6] FINRA now is proposing to amend Rule 6750.01 to provide that FINRA may publish or distribute aggregated transaction information and statistics on U.S. Treasury Securities to provide investors and market participants with insight into aggregate trading volume for U.S. Treasury Securities. For example, after discussions with staff at the SEC and the Treasury Department, FINRA intends to publish weekly volume information aggregated by U.S. Treasury Security subtype (*e.g.,* Bills, Floating Rate Notes, Treasury Inflation-Protected Securities, and Nominal Coupons). Further, the volume information may be grouped within dealer-to-customer, ATS and dealer-to-dealer, remaining years to maturity, or other categories.

FINRA notes that any aggregated U.S. Treasury Security data published would not identify individual market participants or transactions. In addition, FINRA would not publish aggregated transaction information and statistics by individual U.S. Treasury Security, except for the category of on-the-run U.S. Treasury Securities because there is for each week often one on-the-run security for each subtype and maturity. As is generally the case currently for the aggregated transaction information and statistics made available on other types of non-disseminated TRACE-Eligible Securities, information on transactions in U.S. Treasury Securities would be provided at no charge (separately, FINRA may determine to submit a rule filing imposing a fee). FINRA believes that the proposed rule change will benefit investors and market participants by providing insight into U.S. Treasury Security transaction volume, while maintaining the confidentiality of individual market participants and transactions.

If the Commission approves the proposed rule change, the effective date of the proposed rule change will be the date of Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[7] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(b)(9) of the Act,[8] which requires that FINRA rules not impose any burden on competition that is not necessary or appropriate.

FINRA believes that the proposed rule change will benefit investors and market participants by providing insight into U.S. Treasury Security transaction volume, while maintaining the confidentiality of individual market participants and transactions. Accordingly, FINRA believes the proposal is in the public interest and will help promote transparency in TRACE-Eligible Securities.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA has undertaken an economic impact assessment, as set forth below, to analyze the regulatory need for the proposed rule change, its potential economic impacts, including anticipated costs and benefits, and any alternatives considered in assessing how best to meet the proposal's regulatory objectives.

Regulatory Need

The purpose of the rule is described above and is consistent with the TRACE transparency initiatives.

Economic Baseline

As mentioned above, in July 2017, FINRA member firms began reporting transactions in U.S. Treasury Securities to TRACE.[9] Currently, there is no

[3] Rule 6710 generally defines a ''TRACE-Eligible Security'' as: A debt security that is United States (''U.S.'') dollar-denominated and is: (1) Issued by a U.S. or foreign private issuer, and, if a ''restricted security'' as defined in Securities Act Rule 144(a)(3), sold pursuant to Securities Act Rule 144A; (2) issued or guaranteed by an Agency as defined in Rule 6710(k) or a Government-Sponsored Enterprise as defined in Rule 6710(n); or (3) a U.S. Treasury Security as defined in Rule 6710(p). ''TRACE-Eligible Security'' does not include a debt security that is issued by a foreign sovereign or a Money Market Instrument as defined in Rule 6710(o).

[4] FINRA generally requires members to report transactions in any security that meets the definition of ''TRACE-Eligible Security'' to the Trade Reporting and Compliance Engine (''TRACE''), unless an exception applies. *See* Rule 6730 (Transaction Reporting).

[5] ''U.S. Treasury Security'' means a security, other than a savings bond, issued by the U.S. Department of the Treasury (''Treasury Department'') to fund the operations of the federal government or to retire such outstanding securities. The term also includes separate principal and interest components of a U.S. Treasury Security that has been separated pursuant to the Separate Trading of Registered Interest and Principal of Securities (STRIPS) program operated by the Treasury Department. *See* Rule 6710(p).

[6] Beginning on July 10, 2017, amendments to FINRA Rule 6730 took effect that required members to report transactions in U.S. Treasury Securities to TRACE. *See* Securities Exchange Act Release No. 79116 (October 18, 2016), 81 FR 73167 (October 24, 2016) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of File No. SR–FINRA–2016–027). *See also Regulatory Notice* 16–39 (October 2016).

[7] 15 U.S.C. 78*o*–3(b)(6).

[8] 15 U.S.C. 78*o*–3(b)(9).

[9] *See supra* note 6.

dissemination of transactions to the public, either real-time or on a delayed basis, as member firms report trade activity in U.S. Treasury Securities to TRACE for regulatory and other official sector purposes.[10] There currently is limited and fragmented publicly available information on U.S. Treasury Security transaction volume. The Federal Reserve Bank of New York publishes average daily trading volume and end-of-the-week positions of primary dealers in U.S. Treasury Securities on a weekly basis.[11] However, there is substantial trading volume with and among non-primary dealers. Currently there is not available, to the public or otherwise, a comprehensive source of aggregated volume data that reflects all major segments in the U.S. Treasury Securities market.

Economic Impacts

Dissemination of aggregate volume data and statistics for U.S. Treasury Securities would not impose any additional requirements on firms. Aggregate volume data would be derived from trade reports submitted to TRACE. In addition, because the data would be available free of charge, FINRA does not believe that there would be any direct costs associated with the proposal for firms, investors or data consumers.

FINRA believes that publishing aggregate volume information would help market participants better understand the overall trading of U.S. Treasury Securities by providing information that could be utilized in assessing the level of liquidity over time within published categories. Thus, aggregated volume statistics should provide incremental and valuable insight into trading activity and supplement the information currently published by the Federal Reserve Bank of New York.[12] Furthermore, since the reported volume would be grouped—*e.g.,* by security subtype, remaining years to maturity, and market segment (*e.g.,* ATS and dealer-to-dealer or dealer-to-customer)—the data could provide a breakdown of trading activity information at a level of granularity that has not been officially available before for U.S. Treasury Securities.

FINRA also considered information leakage concerns, *i.e.,* whether market participants' proprietary trading strategies could be discerned from publishing aggregated data; however, FINRA believes aggregation mitigates information leakage concerns by limiting the granularity of the data within descriptive groupings with no accompanying security- or market participant-level data.

Alternatives Considered

No other alternatives were considered for the proposed dissemination framework.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2019–028 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2019–028. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2019–028 and should be submitted on or before December 11, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–25100 Filed 11–19–19; 8:45 am]

**BILLING CODE 8011–01–P**

[10] FINRA makes the data available to the official sector to assist them in monitoring and analyzing the U.S. Treasury Securities markets. The Treasury Department, the Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, the Securities and Exchange Commission, and the U.S. Commodity Futures Trading Commission comprise the Inter-Agency Working Group for Treasury Market Surveillance (''IAWG'' or ''official sector'').

[11] *See https://www.newyorkfed.org/markets/primarydealers* for the definition of ''primary dealers'' and the weekly statistics.

[12] Some primary dealers are FINRA members.

[13] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–87539; File No. SR–CboeBYX–2019–020]**

## Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule

November 14, 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 November 1, 2019, Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BZX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the fee schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/byx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend its fee schedule in connection with its Add Volume Tiers.

The Exchange first notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 13 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Exchange Act, to which market participants may direct their order flow. Based on publicly available information,[3] no single registered equities exchange has more than 18% of the market share. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. The Exchange in particular operates a ''Taker-Maker'' model whereby it pays credits to members that remove liquidity and assesses fees to those that add liquidity. The Exchange's Fees Schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Particularly, for securities at or above $1.00, the Exchange provides a standard rebate of $0.0005 per share for orders that remove liquidity and assesses a fee of $0.0019 per share for orders that add liquidity. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue to reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. In response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides incremental incentives for Members to strive for higher or different tier levels by offering increasingly higher discounts or enhanced benefits for satisfying increasingly more stringent criteria or different criteria.

For example, pursuant to footnote 1 of the Fees Schedule, the Exchange offers Add Volume Tiers that provide Members an opportunity to receive a discounted rate from the standard fee assessment for liquidity adding orders that yield fee codes ''B'',[4] ''V'' [5] and ''Y''.[6] The Add Volume Tiers currently offer five different tiers that vary in levels of criteria difficulty and incentive opportunities in which Members may qualify for discounted rates for such orders. The Exchange notes that these tiers are designed to encourage Members that provide displayed, liquidity adding orders on the Exchange to increase their order flow, thereby contributing to a deeper and more liquid market to the benefit of all market participants.

Specifically, the Exchange proposes to amend Add Volume Tier 4, which currently provides Members an opportunity to qualify for a reduced fee of $0.0016 for orders yielding fee codes B, V, and Y where a Member has an ADAV [7] of greater than or equal to 0.25% of the TCV,[8] and a Step-Up ADAV [9] of greater than or equal to 0.05% of the TCV from April 2017 baseline. The Exchange proposes to remove the requirement that a Member have a Step-Up ADAV of greater than or equal to 0.05% of the TCV from April 2017 baseline, and slightly decrease the fee reduction rate from the current $0.0016 to a proposed rate of $0.0017. The Exchange notes that the proposed change to this tier's criteria is designed to make it easier to achieve by removing the Step-Up ADAV component. As a result, the proposed criteria would become the least difficult tier to achieve in comparison to current Add Volume Tiers 1 through 3. Therefore, to maintain the Add Volume Tiers in order of incremental difficulty and corresponding rates, the Exchange moves this proposed criteria and fee reduction rate to Tier 1 (and updates the subsequent Tier numbers).

The Exchange notes that the proposed change to this tier is designed to make the tier criteria easier to reach by removing the Step-Up ADAV component of the criteria. The Exchange believes that by easing the tier criteria difficulty it will encourage those Members who could not previously achieve current Tier 4 to increase their order flow as a means to receive the tier's proffered fee reduction. The Exchange also notes that the proposed decrease in the current fee reduction rate is commensurate with the proposed decrease in the tier's criteria. The Exchange believes the proposed criteria modification for displayed, liquidity adding orders will incentivize increased overall order flow to the Book and gives liquidity providing Members on the Exchange an additional opportunity to receive a discounted rate. It is designed

[3] *See* Cboe Global Markets, U.S. Equities Market Volume Summary (October 25, 2019), available at *https://markets.cboe.com/us/equities/market_statistics/*.

[4] Appended to displayed orders that add liquidity to BYX (Tape B), and assessed a fee of $0.0019.

[5] Appended to displayed orders that add liquidity to BYX (Tape A), and assessed a fee of $0.0019.

[6] Appended to displayed orders that add liquidity to BYX (Tape C), and assessed a fee of $0.0019.

[7] ''ADAV'' means average daily volume calculated as the number of shares added per day. ADAV is calculated on a monthly basis.

[8] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

[9] ''Step-Up ADAV'' means ADAV in the relevant baseline month subtracted from current ADAV.

to provide Members that submit displayed liquidity on the Exchange a further incentive to contribute to a deeper, more liquid market, in turn, providing additional execution opportunities at transparent prices as a result of such increased, displayed liquidity. The Exchange believes that this benefits all Members by enhancing overall market quality and contributing towards a robust and well-balanced market ecosystem. The Exchange notes the proposed tier is available to all Members and is competitively achievable for all Members that submit displayed order flow, in that, all firms that submit the requisite displayed order flow could compete to meet the tier.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[10] in general, and furthers the objectives of Section 6(b)(4),[11] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5) [12] 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, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule change reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members.

In particular, the Exchange believes the proposed tier is reasonable because it restructures an opportunity for Members to receive a discounted rate by making it easier to reach the proposed threshold by means of liquidity adding displayed orders. The Exchange notes that relative volume-based incentives and discounts have been widely adopted by exchanges,[13] including the Exchange,[14] and are reasonable, equitable and non-discriminatory because they are open to all members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns. Additionally, as noted above, the Exchange operates in highly competitive market. The Exchange is only one of several equity venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. It is also only one of several taker-maker exchanges. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume and/or growth thresholds. These competing pricing schedules, moreover, are presently comparable to those that the Exchange provides, including the pricing of comparable tiers.[15]

Moreover, the Exchange believes the proposed modification to remove the Step-Up component from current Add Volume Tier 4 (proposed Tier 1) is a reasonable means to further incentivize Members to increase their overall displayed order flow to the Exchange based on increasing their daily total added volume (ADAV) above a percentage of the total volume (TCV). Particularly, the Exchange believes that decreasing the tier's criteria will encourage those Members who could not achieve the tier previously to increase their order flow as a means to receive the tier's reduced rate. The Exchange believes that easing the current Tier 4 criteria will encourage displayed liquidity providing Members to provide for a deeper, more liquid market, and, as a result, increased priced transparency, execution opportunities, and overall order flow. The Exchange believes that these increases benefit all Members by enhancing market quality and contributing towards a robust and well-balanced market ecosystem. Increased overall order flow benefits all investors by deepening the Exchange's liquidity pool, providing greater execution incentives and opportunities, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. In line with the proposed ease in criteria difficulty, the Exchange also believes that the proposed lesser fee reduction than offered currently is reasonable as it is commensurate with the proposed decreased criteria. Similarly, moving the proposed criteria and the adjusted corresponding fee reduction to Tier 1 is reasonable because it appropriately reflects the incremental difficulty in achieving the existing Add Volume Tiers and the incrementally higher reduction in fees that correspond to each.

The Exchange believes that the proposal represents an equitable allocation of rebates and is not unfairly discriminatory because all Members are eligible for the proposed Add Volume Tier, and would have the opportunity to meet the tier's criteria and would receive the proposed rebate if such criteria is met. Given previous months' data, the Exchange notes that two of its Members reached current Tier 4 in the last month. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would definitely result in any Members qualifying for this tier. While the Exchange has no way of predicting with certainty how the proposed tier will impact Member activity, the Exchange anticipates that at least four Members will be able to compete for and reach the proposed tier. Accordingly, the Exchange believes the proposed criteria modification is reasonably designed as an incentive to any and all Members interested in meeting the tier criteria to submit additional displayed order flow to achieve the proposed discount. The Exchange anticipates that these will include multiple Member types, liquidity providers (*e.g.,* wholesale firms

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(4).

[12] 15 U.S.C. 78f.(b)(5).

[13] *See e.g.,* The Nasdaq Stock Market LLC Rules, Equity 7, Sec. 118(a)(1), which generally provides credits to members for displayed, liquidity providing orders that reach certain thresholds of consolidated volume.

[14] *See e.g.,* Cboe BYX U.S. Equities Exchange Fee Schedule, Footnotes 1 and 2, Remove Volume and Non-Displayed Liquidity Incentive tiers provide similar incentives for volume removing orders and for volume adding, non-displayed orders, respectively.

[15] *See supra* note 12. For example, Nasdaq offers a rebate of $0.00305 per share with shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 1.25% of Consolidated Volume during the month. The Exchange notes that this rebate of $0.00305 is substantially similar to the proposed fee reduction of $0.0017 (which is essentially a 'rebate' of $0.002 from the $0.0019 standard fee assessed).

that mainly are market makers for retail orders) and broker-dealers (*e.g.,* bulge bracket firms that conduct trading on behalf of customers), each providing distinct types of order flow to the Exchange to the benefit of all market participants. For example, broker-dealer customer order flow provides more trading opportunities, which attracts Market Makers. Increased Market Maker activity facilitates tighter spreads which potentially increases order flow from other market participants. The Exchange also notes that the proposed tier will not adversely impact any Member's pricing or their ability to qualify for other rebate tiers. Rather, should a Member not meet the proposed criteria, the Member will merely not receive an enhanced rebate. Furthermore, the proposed rate would uniformly apply to all Members that meet the required criteria under the modified tier.

*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 intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed change would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [16]

The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed change applies to all Members equally in that all Members are eligible for the proposed tier, have a reasonable opportunity to meet the tier's criteria and will all receive the proposed fee rate if such criteria is met. Additionally the proposed change is designed to attract additional order flow to the Exchange. The Exchange believes that the modified tier criteria would incentivize market participants to direct displayed liquidity and, as a result, executable order flow and improved price transparency, to the Exchange. Greater overall order flow and pricing transparency benefits all market participants on the Exchange by providing more trading opportunities, enhancing market quality, and continuing to encourage Members to send orders, thereby contributing towards a robust and well-balanced market ecosystem, which benefits all market participants.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including 12 other equities exchanges and off-exchange venues and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 18% of the market share.[17] Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [18] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission*, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''.[19] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [20] and paragraph (f) of Rule 19b–4 [21] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBYX–2019–020 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange

[16] Securities Exchange Act Release No. 51808, 70 FR 37495, 37498–99 (June 29, 2005) (S7–10–04) (Final Rule).

[17] *See supra* note 3.

[18] See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[19] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f).

Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBYX–2019–020. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBYX–2019–020 and should be submitted on or before December 11, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–25104 Filed 11–19–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 33684; 812–14870]**

## Natixis ETF Trust II, et al.; Notice of Application

November 14, 2019.

**AGENCY:** Securities and Exchange Commission (''Commission'').

**ACTION:** Notice of an application for exemptive relief.

**SUMMARY OF APPLICATION:** Applicants request an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. If granted, the requested order would permit registered open-end investment companies that are exchange-traded funds (''ETFs'') and are actively managed to operate without being subject to a daily portfolio transparency condition.

**APPLICANTS:** Natixis Advisors, L.P. (''Natixis''); Natixis ETF Trust II (the ''Trust'') and NYSE Group, Inc. (''NYSE'').

**FILING DATES:** The application was filed on January 22, 2018, and amended on June 15, 2018, November 9, 2018, May 1, 2019, July 3, 2019, July 26, 2019, August 26, 2019, and October 21, 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 December 9, 2019, and should be accompanied by proof of service on Applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants: Natixis Advisors, L.P. and Natixis ETF Trust II, 888 Boylston Street, Boston, Massachusetts 02199; and NYSE Group, Inc., 11 Wall Street, New York, NY 10005.

**FOR FURTHER INFORMATION CONTACT:** Kay-Mario Vobis, Senior Counsel; Andrea Ottomanelli Magovern, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

### I. Introduction

1. Applicants seek to introduce a novel type of actively-managed ETF that would not be required to disclose its portfolio holdings on a daily basis (each, a ''Fund''). Due to their characteristics, ETFs (including those proposed by Applicants) are only permitted to operate in reliance on Commission exemptive relief from certain provisions of the Act and rules thereunder.[1] Accordingly, Applicants seek an order: under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 thereunder; under sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and 17(a)(2) of the Act; and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and (B) of the Act. The requested order would permit: (a) The Funds to issue shares (''Shares'') redeemable in large aggregations only (''creation units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of creation units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (''Investing Funds'') to acquire Shares of the Funds.

2. Section 6(c) allows the Commission to exempt any person, security, or transaction, or any class thereof, only ''if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of [the Act].'' As discussed below, the Commission believes that the

[22] 17 CFR 200.30–3(a)(12).

[1] The Commission first granted exemptive relief to operate ETFs in the early 1990s when the first index-based ETFs were developed. *See* SPDR Trust Series I, Investment Company Act Release Nos. 18959 (Sept. 17, 1992) (notice) and 19055 (Oct. 26, 1992) (order). *See generally* Exchange Traded Funds, Investment Company Act Release No. 33646 (Sept. 25, 2019) (''ETF Rule Adopting Release''), at section I. The Commission has also granted ETFs exemptive relief from Sections 12(d)(1)(A) and (B) of the Act. *See generally* Fund of Funds Arrangements, Investment Company Act Release No. 33329 (Dec. 19, 2018).

Funds meet the standard for exemptive relief under section 6(c) of the Act.[2] Accordingly, the Commission intends to grant the requested relief.

## II. Background

### *A. Open-End Investment Companies and Net Asset Value*

3. The Act defines an investment company as an ''issuer'' of ''any security'' which ''is or holds itself out as being engaged primarily . . . in the business of investing . . . in securities.'' [3] Shares in an investment company represent proportionate interests in its investment portfolio, and their value fluctuates in relation to the changes in the value of that portfolio.

4. The most common form of investment company, the ''open-end'' investment company or mutual fund, is required by law to redeem its securities on demand at a price approximating the securities' proportionate share of the fund's NAV at the time of redemption.[4] These funds also continuously issue and sell new shares, thereby replenishing their investment capital.

5. Because open-end investment companies are required by law to redeem their shares based on investors' demands, shares of the funds have historically not traded on exchanges or in other secondary markets.[5]

### *B. Exemptions Under the Act for Actively Managed ETFs*

6. ETFs, including those proposed by Applicants, are a type of open-end fund. But unlike traditional open-end funds, ETFs are made available to investors primarily through secondary market transactions on exchanges.

7. In order for this to take place, ETFs require various exemptions from the provisions of the Act and the rules thereunder. Critically, in granting such exemptions to date, the Commission has required that a mechanism exist to ensure that ETF shares would trade at a price that is at or close to the NAV per share of the ETF.[6]

8. Such a mechanism is essential for ETFs to operate because ETFs do not sell or redeem their individual shares at NAV per share as required by the Act. Instead, large broker-dealers that have contractual arrangements with an ETF (each, an ''Authorized Participant'') purchase and redeem ETF shares directly from the ETF, but only in large blocks called ''creation units.'' Traditionally, an Authorized Participant that purchases a creation unit of ETF shares first deposits with the ETF a ''basket'' of securities and other assets (*e.g.,* cash) identified by the ETF that day, and then receives the creation unit of ETF shares in return for those assets. The basket is generally representative of the ETF's portfolio and is equal in value to the aggregate NAV of ETF shares in the creation unit. After purchasing a creation unit, the Authorized Participant may sell the component ETF shares in secondary market transactions. Investors then purchase individual shares in the secondary market. The redemption process is the reverse of the purchase process: the Authorized Participant acquires a creation unit of ETF shares and redeems it for a basket of securities and other assets.

9. The combination of the creation and redemption process with the secondary market trading in ETF shares provides arbitrage opportunities that are designed to help keep the market price of ETF shares at or close to the NAV per share of the ETF.[7] For example, if ETF shares begin trading on national securities exchanges at a ''discount'' (a price below the estimated intraday NAV per share of the ETF), an Authorized Participant can purchase ETF shares in secondary market transactions and, after accumulating enough shares to comprise a creation unit, redeem them from the ETF in exchange for the more valuable securities and other assets in the ETF's redemption basket. In addition to purchasing ETF shares, Authorized Participants also are likely to hedge their intraday risk. Thus, for example, when ETF shares are trading at a discount to the estimated intraday NAV per share of the ETF, an Authorized Participant may also simultaneously short the securities in the ETF's redemption basket. At the end of the day, the Authorized Participant will return the creation unit of ETF shares to the ETF in exchange for the ETF's basket assets, and use such assets to cover its short positions. Those purchases reduce the supply of ETF shares in the market, and thus tend to drive up the market price of the shares to a level closer to the NAV per share of the ETF.[8]

10. Conversely, if the market price for ETF shares reflects a ''premium'' (a price above the estimated intraday NAV per share of the ETF), an Authorized Participant can deposit a basket of securities and other assets in exchange for the more valuable creation unit of ETF shares, and then sell the individual shares in the market to realize its profit.[9] An Authorized Participant also is likely to hedge its intraday risk when ETF shares are trading at a premium. Thus, for example, when the shares of an ETF are trading at a premium, an Authorized Participant may buy the securities in the ETF's purchase basket in the secondary market and sell short the ETF shares. At the end of the day, the Authorized Participant will deposit the basket assets in exchange for a creation unit of ETF shares, which it will then use to cover its short positions. The Authorized Participant will receive a profit from having paid less for the ETF shares than it received for the assets in the purchase basket. These transactions would increase the supply of ETF shares in the secondary market, and thus tend to drive down the price of ETF shares to a level closer to the NAV per share of the ETF.

11. Market participants can also engage in arbitrage activity without using the creation or redemption processes described above. For example, if a market participant believes that an ETF is overvalued relative to its underlying or reference assets (*i.e.* trading at a premium), the market participant may sell ETF shares short and buy the underlying or reference assets, wait for the trading prices to move toward parity, and then close out the positions in both the ETF shares and the underlying or reference assets to realize a profit from the relative movement of their trading prices. Similarly, a market participant could buy ETF shares and sell the underlying or reference assets short in an attempt to profit when an ETF's shares are trading at a discount to the ETF's underlying or reference assets. As

[2] *See infra* section IV for a discussion of all the relief requested by Applicants, including relief under sections 17(b) and 12(d)(1)(J) of the Act.

[3] 15 U.S.C. 80a–3(a); 80a–3(a)(1).

[4] *See* section 22(d) and rule 22c–1; *see also infra* section IV.A (discussing section 22(d) and rule 22c–1).

[5] This stems from section 22(d) of the Act, which in effect fixes the prices at which redeemable securities, including open-end shares, are sold. The result is a system that precludes dealers from making a secondary market in open-end shares.

[6] This has been a required representation in all ETF orders since the Commission issued the first order. *See supra* note 1.

[7] *See* Investment Company Institute, *2019 Investment Company Fact Book* (2019), at 88–89; ETF Rule Adopting Release, *supra* note 1, at note 31 and accompanying text.

[8] The Authorized Participant's purchase of the ETF shares in the secondary market, combined with the sale of the redemption basket securities, may also create upward pressure on the price of ETF shares and/or downward pressure on the price of redemption basket securities, driving the market price of ETF shares and the value of the ETF's portfolio holdings closer together.

[9] The Authorized Participant's purchase of the basket assets, combined with the sale of ETF shares, may also create downward pressure on the price of ETF shares, upward pressure on the price of purchase basket securities, or both, bringing the market price of ETF shares and the value of the ETF's portfolio holdings closer together.

discussed above, this type of trading of an ETF's shares and the ETF's underlying or reference assets may bring the prices of the ETF's shares and its portfolio assets closer together through market pressure.

12. In assessing whether to grant exemptive relief to actively managed ETFs in the past, the Commission has required a mechanism that would keep the market prices of ETF shares at or close to the NAV per share of the ETF.[10] This close tie between market price and NAV per share of the ETF is the foundation for why the prices at which retail investors buy and sell ETF shares are similar to the prices at which Authorized Participants are able to buy and redeem shares directly from the ETF at NAV. In granting relief from section 22(d) of the Act and rule 22c–1 under the Act, the Commission relies on this close tie between what retail investors pay and what Authorized Participants pay to make the finding that the ETF's shareholders are being treated equitably when buying and selling shares.[11]

## III. The Application

### *A. The Applicants*

13. The Trust is organized as a business trust under the laws of the Commonwealth of Massachusetts and is registered with the Commission as an open-end management investment company. Natixis is a Delaware partnership and is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''), would serve as the investment adviser to the initial Fund. The Trust will enter into a distribution agreement with one or more distributors. Any distributor will be a registered broker-dealer under the Securities Exchange Act of 1934, as amended (''Exchange Act''), and will act as distributor and principal underwriter of the Funds. The NYSE is the parent company of, among others, entities that are registered national securities exchanges. The proxy portfolio methodology, as described in the application,[12] is owned by the NYSE and licensed for use by each Fund. The NYSE is not affiliated with the Funds, Adviser or Distributor.

### *B. Applicants' Proposal*

14. Applicants seek exemptive relief under section 6(c) to allow them to introduce actively-managed Funds that would not disclose their portfolio holdings on a daily basis.[13] Applicants maintain that operating the Funds as fully-transparent actively-managed ETFs would make the Funds susceptible to ''front running'' and ''free riding'' by other investors and/or managers, which can harm, and result in substantial costs to, the Funds and their shareholders.[14]

15. Applicants believe that the Funds would allow investors to access active investment strategies offered by certain investment advisers that are currently only available via mutual funds, while also taking advantage of the traditional benefits of ETFs (*e.g.,* lower fund costs, tax efficiencies and intraday liquidity).

16. Applicants state that the relief in the application is similar to the relief granted in exemptive orders issued to existing actively managed ETFs, except for certain differences permitting the Funds to operate on a non-transparent basis.[15] These material differences are discussed below.

a. *Proxy Portfolio.* Each day a Fund would publish a basket of securities and cash that, while different from the Fund's portfolio, is designed to closely track its daily performance (the ''Proxy Portfolio'').[16] In addition, every day the Fund would disclose the percentage weight overlap between the holdings of the prior business day's Proxy Portfolio compared to the holdings of the Fund that formed the basis for the Fund's calculation of NAV at the end of the prior business day (the ''Proxy Overlap''). Such number would help market participants evaluate the risk that the performance of the Proxy Portfolio may deviate from the performance of the portfolio holdings of a Fund.

Applicants state that the Proxy Portfolio would serve as a pricing and hedging tool for market participants to identify and take advantage of arbitrage opportunities. Because the Proxy Portfolio would be designed to closely track the daily performance of the Fund's holdings, the Proxy Portfolio would serve to estimate the value of those holdings. For the same reason, trading the Proxy Portfolio would allow market participants to get exposure to the performance of the Fund's holdings, so that a Fund's Proxy Portfolio could serve to hedge a position in the Fund's Shares. Further, the Proxy Portfolio would serve as the creation/redemption basket when Authorized Participants exchange creation units with the Fund.

Also in order to facilitate arbitrage, each Fund's portfolio and Proxy Portfolio will only include certain securities that trade on an exchange contemporaneously with the Fund's Shares.[17] Because the securities would be exchange traded, market participants would be able to accurately price and readily trade the securities in the Proxy Portfolio for purposes of assessing the intraday value of the Fund's portfolio holdings and to hedge their positions in the Fund's shares.

b. *Arbitrage Transactions in the Funds.* Applicants state that, given the correlation between a Fund's Proxy Portfolio and its portfolio holdings, the Proxy Portfolio would serve as a pricing signal to identify arbitrage opportunities when its value and the secondary market price of the Shares diverge. If Shares began trading at a discount to the

[10] Until recently, the Commission only approved a mechanism dependent on daily portfolio transparency. *See generally* ETF Rule Adopting Release, *supra* note 1, at section II.C.4. Last May, the Commission issued an order granting relief to actively managed ETFs that, like the Funds, do not disclose their complete portfolio holdings on a daily basis. *See* Precidian ETFs Trust, *et al.,* Investment Company Act Release No. 33440 (Apr. 8, 2019) (the ''Precidian Notice'') and 33477 (May 20, 2019) (the ''Precidian Order''). Applicants' proposed arbitrage mechanism differs from that in the Precidian Order.

[11] *See supra* note 4 and accompanying text.

[12] *See* application at 10.

[13] Applicants request that the order apply to series of the Trust identified and described in the application as well as to additional series of the Trust and any other open-end management investment company or series thereof that seek to rely on the relief requested in the application, each of which will operate as an actively-managed ETF. Any Fund will: (a) Be advised by Natixis, or an entity controlling, controlled by, or under common control with Natixis (each such entity and any successor thereto is included in the term ''Adviser''); and (b) comply with the terms and conditions of the application. The Adviser may retain one or more sub-advisers (each a ''Sub-Adviser'') for the Funds. Any Sub-Adviser will be registered under the Advisers Act. For purposes of the requested order, the term ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[14] *See* application at 9.

[15] *Cf.* Precidian Order *supra* note 10.

[16] The Funds would, at a minimum, provide the quarterly portfolio disclosures required for mutual funds. *See* rule 30b1–9 under the Act and Form N–PORT.

[17] Each Fund may invest only in ETFs, Exchange-traded notes, Exchange-traded common stocks, common stocks listed on a foreign exchange that trade on such exchange contemporaneously with the Shares, Exchange-traded preferred stocks, Exchange-traded American depositary receipts, Exchange-traded real estate investment trusts, Exchange-traded commodity pools, Exchange-traded metals trusts, Exchange-traded currency trusts, and exchange-traded futures that trade contemporaneously with the Shares, as well as cash and cash equivalents. For purposes of the application, exchange-traded futures are U.S. listed futures contracts where the futures contract's reference asset is an asset that the Fund could invest in directly, or in the case of an index future, is based on an index of a type of asset that the Fund could invest in directly. All futures contracts that a Fund may invest in will be traded on a U.S. futures exchange. For these purposes, an ''Exchange'' is a national securities exchange as defined in section 2(a)(26) of the Act. No Fund will invest in a ''penny stock'' as defined in Exchange Act Rule 3a51–1, borrow for investment purposes, hold short positions, or purchase any security that is illiquid at the time of purchase. The Proxy Portfolio will be subject to the same limitations.

Proxy Portfolio, an authorized participant could purchase the Shares in secondary market transactions and, after accumulating enough Shares to comprise a creation unit, redeem them from the Fund in exchange for a redemption basket reflecting the NAV per share of the Fund's portfolio holdings.[18] The purchases of Shares would reduce the supply of Shares in the market, and thus tend to drive up the Shares' market price closer to the Fund's NAV.[19] Alternatively, if Shares are trading at a premium, the transactions in the arbitrage process are reversed.

Applicants further state that, like with traditional ETFs, market participants also can engage in arbitrage without using the creation or redemption processes.[20] For example, if a Fund is trading at a premium to the Proxy Portfolio, the market participant may sell Shares short and take a long position in the Proxy Portfolio securities, wait for the trading prices to move toward parity, and then close out the positions in both the Shares and the securities, to realize a profit from the relative movement of their trading prices. Similarly, a market participant could buy Shares and take a short position in the Proxy Portfolio securities in an attempt to profit when Shares are trading at a discount to the Proxy Portfolio.

c. *Protective conditions.* Applicants have agreed to comply with certain conditions in addition to those included in prior ETF exemptive orders.[21] First, the Funds will provide certain public disclosures to explain to investors how they differ from traditional ETFs and inform investors that the Funds' bid-ask spreads and premiums/discounts may be larger than those for traditional ETFs due to the lack of transparency, thus making trading in the Funds' Shares more expensive. The Funds will also disclose that market participants may attempt to reverse engineer a Fund's trading strategy, which, if successful, could increase opportunities for trading practices that may disadvantage the Fund and its shareholders.[22] Each Fund will include a legend (the ''Legend'') in a prominent location on the outside cover page of its prospectus, as well as on its website and any marketing materials, that will highlight for investors the differences between the Funds and fully transparent actively managed ETFs and the above costs and risk.[23] Unless otherwise requested by the staff of the Commission, the Legend will read as follows:

**This ETF Is Different From Traditional ETFs**

Traditional ETFs tell the public what assets they hold each day. This ETF will not. This may create additional risks for your investment. For example:

- You may have to pay more money to trade the ETF's shares. This ETF will provide less information to traders, who tend to charge more for trades when they have less information.
- The price you pay to buy ETF shares on an exchange may not match the value of the ETF's portfolio. The same is true when you sell shares. These price differences may be greater for this ETF compared to other ETFs because it provides less information to traders.
- These additional risks may be even greater in bad or uncertain market conditions.
- The ETF will publish on its website each day a ''Proxy Portfolio'' designed to help trading in shares of the ETF. While the Proxy Portfolio includes some of the ETF's holdings, it is not the ETF's actual portfolio.

The differences between this ETF and other ETFs may also have advantages. By keeping certain information about the ETF secret, this ETF may face less risk that other traders can predict or copy its investment strategy. This may improve the ETF's performance. If other traders are able to copy or predict the ETF's investment strategy, however, this may hurt the ETF's performance.

For additional information regarding the unique attributes and risks of the ETF, see section [ ] below.

17. Second, Applicants will comply with the requirements of Regulation Fair Disclosure (''Reg. FD'') as if it applied to them, thus prohibiting the Fund's selective disclosure of any material nonpublic information.[24] Because the Funds will not publicly disclose their portfolio holdings daily, the selective disclosure of material nonpublic information, including information other than portfolio information, would be more likely to provide an unfair advantage to the recipient than in other ETFs.

18. Third, the Funds and their Adviser will take remedial actions as necessary if the Funds do not function as anticipated. For the first three years after launch, a Fund will establish certain thresholds for its level of Tracking Error,[25] premiums/discounts, and spreads, so that, upon the Fund's crossing a threshold, the Adviser will promptly call a meeting of the Fund's board of directors, and will present the board with recommendations for appropriate remedial measures.[26] The board would then consider the continuing viability of the Fund, whether shareholders are being harmed, and what, if any, action would be appropriate.[27] In addition, Applicants have agreed to provide to Commission staff on a periodic basis certain metrics and other such information as the staff may request in order to facilitate the staff's ongoing monitoring of the Funds.[28]

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[18] In addition to purchasing Shares, an authorized participant also would likely hedge its intraday risk by shorting the securities in the Proxy Portfolio (the same as in the redemption basket) in an amount corresponding to its long position in Shares. After the authorized participant returns a creation unit to the Fund in exchange for a redemption basket, the authorized participant can use the basket securities to cover its short positions. *Cf. supra* note 8.

[19] The purchase of the Shares in the secondary market, combined with the sale of the redemption basket securities, may also drive the market price of Shares and the value of the Fund's portfolio holdings closer together. *See supra* note 8.

[20] *See supra* paragraph 11.

[21] These are substantially the same as conditions included in the Precidian Order. See Precidian Notice *supra* note 10, at paragraph 17(d).

[22] *See* application at 12.

[23] *See* application at 16.

[24] *See* 17 CFR 243. ETFs are not otherwise subject to Reg. FD. The federal securities laws and an investment adviser's fiduciary duties permit the disclosure of an ETF's nonpublic portfolio information to selected third parties only when the ETF has legitimate business purposes for doing so and the recipients are subject to a duty of confidentiality, including a duty not to trade on the nonpublic information. *See* Exchange Traded Funds, Investment Company Act Release No. 33140 (Jun. 28, 2018), at text accompanying notes 225–226 (proposing rule 6c–11 and discussing Reg. FD). Reg. FD's Rule 100(b)(2)(iii) exempts from Reg. FD certain communications made in connection with a securities offering registered under the Securities Act. Applicants would not rely on this exemption; as the Funds will be continuously offered, this exemption would likely make the condition requiring Applicants to comply with Reg. FD meaningless.

[25] ''Tracking Error'' is the standard deviation over the past three months of the daily proxy spread (*i.e.,* the difference, in percentage terms, between the Proxy Portfolio's per share NAV and that of the Fund at the end of the trading day).

[26] *See* application at 17. For the first three years after launch of a Fund, its board would promptly meet (1) if the Tracking Error exceeds 1%; or (2) if, for 30 or more days in any quarter or 15 days in a row (a) the absolute difference between either the market closing price or Bid/Ask Price, on one hand, and NAV, on the other, exceeds 2%, or (b) the bid/ask spread exceeds 2%. A Fund may adopt additional or lower (*i.e.,* less than 1% for the Tracking Error or less than 2% for the others) thresholds to the extent deemed appropriate and approved by the Fund's board.

[27] For at least three years after launch of each Fund, the Board will also undertake these considerations on an annual basis, regardless of whether the Fund's preset thresholds have been crossed. Potential actions may include, but are not limited to, changing lead market makers, listing the Fund on a different exchange, changing the size of creation units, modifications to the Proxy Portfolio process, changing the Fund's investment objective or strategy, and liquidating the Fund. *See* application at 17.

[28] *See* application at 29, condition 7.

## IV. Requested Exemptive Relief

19. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

20. Applicants' request for relief is novel only under section 22(d) and rule 22c–1 due to the proposed alternative arbitrage mechanism. In all other respects, Applicants are seeking relief that the Commission has previously granted to existing ETFs. As discussed above, the requested relief would be available to any open-end investment company that is an actively-managed ETF operating in compliance with the terms and conditions of the order and that is advised by an Adviser.[29]

21. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general purposes of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

### *A. Novel Relief Under Section 22(d) and Rule 22c–1*

22. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through a principal underwriter other than at a current public offering price described in the fund's prospectus. Rule 22c–1 under the Act requires open-end funds, their principal underwriters, and dealers in fund shares (and certain others) to sell and redeem fund shares at a price based on the current NAV next computed after receipt of an order to buy or redeem.

23. Together, section 22(d) and rule 22c–1 are designed to: (i) Prevent dilution caused by certain riskless trading practices of principal underwriters and dealers; (ii) prevent unjust discrimination or preferential treatment among investors purchasing and redeeming fund shares; and (iii) preserve an orderly distribution of investment company shares.[30]

24. Applicants believe that none of these concerns will be raised by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that secondary market trading in Shares does not involve the Funds as parties and cannot result in dilution of an investment in Shares, and to the extent different prices for Shares exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, Applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, Applicants state that the proposed distribution system will be orderly because anyone will be able to sell or acquire Shares on an exchange and arbitrage activity should ensure that secondary market transactions occur at prices at or close to the Fund's NAV.

25. In considering relief from section 22(d) and rule 22c–1 for ETFs, the Commission has focused on whether the ETFs' arbitrage mechanism addresses the concerns underlying those provisions. The Commission believes that the alternative arbitrage mechanism proposed by Applicants can work in an efficient manner to maintain a Fund's secondary market prices close to its NAV.[31] The Commission recognizes, however, that the lack of full transparency may cause the Funds to trade with spreads and premiums/discounts that are larger than those of comparable, fully transparent ETFs.[32] Nonetheless, as long as arbitrage continues to keep the Fund's secondary market price and NAV close, and does so efficiently so that spreads remain narrow, the Commission believes that investors would benefit from the opportunity to invest in active strategies through a vehicle that offers the traditional benefits of ETFs.[33]

### *B. Other Relief*

26. The additional exemptive relief Applicants seek is relief routinely granted to ETFs, and does not raise novel issues on account of the lack of daily portfolio transparency.

27. *Sections 5(a)(1) and 2(a)(32) of the Act.* First, because the Shares will not be individually redeemable, Applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue Shares that are redeemable in creation units only.

28. *Section 22(e) of the Act.* Second, Applicants seek relief from section 22(e) to permit Funds to satisfy redemption requests more than seven days from the tender of Shares for redemption with respect to foreign securities where the settlement cycle, coupled with local holiday schedules, would not permit a Fund to satisfy redemption requests within the seven days required under section 22(e) of the Act. A Fund would deliver the foreign securities as soon as practicable, but in no event later than 15 days after the tender of Shares.

[29] Applicants request that the terms and conditions of the requested order apply to other registered open-end management investment companies or series thereof not advised by the Adviser (''Licensed Funds''). Applicants anticipate that the NYSE or an affiliate thereof would enter into license agreements with the registered investment advisers advising the Licensed Funds (together with the Licensed Funds, the ''Future Applicants''). Applicants further expect that Future Applicants would apply for a separate exemptive order that incorporates by reference all the terms and conditions of the requested order and any amendments thereto. *See* application at 7. *See also* Precidian Notice *supra* note 10, at note 41 and in re Eaton Vance Management, et al., File No. 812–14139, Fourth Amendment, filed Sept. 25, 2014; Investment Company Act Rel. No. 31333 (Nov. 6, 2014) (notice), Investment Company Act Rel. No. 31361 (Dec. 2, 2014) (order). *See also, e.g.,* in re American Beacon Nextshares Trust, et al., File No. 812–14417, First Amendment, filed Feb. 23, 2015; Investment Company Act Rel. No. 31498 (Mar. 6, 2015) (notice); Investment Company Act Rel. No. 31542 (Apr. 1, 2015) (order).

[30] *See* ETF Rule Adopting Release, *supra* note 1, at text accompanying note 116.

[31] *See supra* paragraph 16(b).

[32] The performance of a Fund's Proxy Portfolio and portfolio holdings may deviate to some extent, which would make market participants' estimates of the profitability of their arbitrage transactions less precise. To account for this possibility, market participants would likely require wider spreads to trade Shares.

[33] Investors will have the information necessary to compare the costs associated with investing in the Funds with the costs of investing in other ETFs and mutual funds. *See* Item 3 of Form N–1A; condition 2. *Cf.* ETF Rule Adopting Release, *supra* note 1, at text following note 119 (noting that for fully transparent ETFs, ''under certain circumstances, including during periods of market stress, the arbitrage mechanism may work less effectively for a period of time,'' but that ''on balance, . . . investors are more likely to weigh the potential benefits of ETFs (*e.g.,* low cost and intraday trading) against any potential for market price deviations when deciding whether to utilize ETFs.'' *Cf.* Precidian Notice *supra* note 10, at 19–20.

29. *Sections 17(a)(1) and (2) of the Act.* Second, Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are affiliated persons, or second-tier affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of creation units and the redemption procedures for in-kind redemptions of creation units will be the same for all purchases and redemptions and basket securities will be valued in the same manner as those portfolio securities currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its Shares to and redeem its Shares from an Investing Fund, and to engage in the accompanying in-kind transactions with the Investing Fund.[34] The purchase of creation units by an Investing Fund directly from a Fund will be accomplished in accordance with the policies of the Investing Fund and will be based on the NAVs of the Funds.

30. *Section 12(d)(1) of the Act.* Third, Applicants request an exemption to permit Investing Funds to acquire Fund Shares beyond the limits of section 12(d)(1)(A) of the Act and permit the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell Fund Shares to Investing Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

*C. Consideration of Possible Concerns Relating to the Requested Relief*

31. As part of our review, we have considered possible concerns regarding the requested relief, including, among others, concerns related to the proposed arbitrage mechanism, the use of Proxy Portfolios, and reverse engineering, as discussed below. We believe, however, that the Applicants' proposed terms and conditions sufficiently address such concerns.

32. *Proposed Arbitrage Mechanism.* One possible concern is that the proposed arbitrage mechanism may not facilitate effective arbitrage, which could result in significant deviations between the secondary market price and NAV per share of a Fund. We believe that the proposed arbitrage mechanism can work in an efficient manner to maintain secondary market prices of Shares close to their NAV while providing investors with the opportunity to invest in active strategies through a vehicle that offers the traditional benefits of ETFs.[35] In addition, to the extent that the Funds do not function as anticipated, Applicants have undertaken to take remedial actions as appropriate.[36]

33. *Use of Proxy Portfolios.* Applicants have also addressed possible implications of using a Proxy Portfolio as an arbitrage mechanism. First, Applicants note that a Fund's Proxy Portfolio would not misrepresent the Fund's holdings or cause investor confusion.[37] To that effect, the Funds would provide disclosures in their prospectus, marketing materials and website clearly indicating the Proxy Portfolio's purpose and that it is not the Fund's portfolio holdings.[38] Second, Applicants state that they would design their Proxy Portfolio so that arbitrageurs' trading will not have a significant market impact on the securities in the Proxy Portfolio, in particular those that a Fund does not hold for investment purposes.[39]

34. *Reverse Engineering.* A third possible concern is that other market participants may be able to reverse engineer current activity in a Fund's holdings and use such information to the disadvantage of the Fund, Authorized Participants and shareholders. Applicants have represented that they will operate the Funds in a manner designed to minimize the risk of reverse engineering and we anticipate that the Funds will have the ability to minimize such risk.[40] Indeed, we note that the Applicants have a significant incentive to minimize this risk, considering that the purpose of their proposed arbitrage mechanism is to facilitate the operation of ETFs that limit the ETFs' susceptibility to predatory trading practices, like ''front running'' and ''free riding.''[41]

**V. Applicants' Conditions:**[42]

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

*A. ETF Relief*

1. As long as a Fund operates in reliance on the requested order, the Shares of the Fund will be listed on an exchange.

2. The website for the Funds, which is and will be publicly accessible at no charge, will contain, on a per Share basis, for each Fund the prior business day's NAV and market closing price or Bid/Ask Price of the Shares, a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV, and any other information regarding premiums and discounts as may be required for other ETFs under rule 6c–11 under the Act, as amended. The website will also disclose any information regarding the bid-ask spread for each Fund as may be required for other ETFs under rule 6c–11 under the Act, as amended.

3. Each Fund will include the Legend in a prominent location on the outside cover page of its prospectus, as well as on its website and any marketing materials.

4. On each business day, before the commencement of trading of Shares, each Fund will publish on its website the Proxy Portfolio and the Proxy Overlap for that day.

5. No Adviser or Sub-Adviser, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may

[34] The requested relief would apply to direct sales of shares in creation units by a Fund to an Investing Fund and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or a second-tier affiliate, of an Investing Fund because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Investing Fund.

[35] *See supra* paragraphs 15 and 16.

[36] *See supra* paragraph 18.

[37] *See* application at 11.

[38] *See* application at 11. In addition, every day the Funds would disseminate the Proxy Overlap, which would inform market participants as to the degree to which the Proxy Portfolio and the Fund's portfolio actually differ. *See id.*

[39] Specifically, the Funds expect to include in the Proxy Portfolio only assets that are liquid and have a high trading volume. *See* application at 10. Further, Applicants note that their proposed use of a Proxy Portfolio is not novel in this respect. Currently, arbitrageurs for fully-transparent ETFs may use securities that are not in the ETFs' portfolio to hedge their positions in the ETFs' shares. *See* application at 11.

[40] Our Division of Economic Research and Analysis (''DERA'') considered whether the current activity in a Fund's holdings could be reverse engineered and concluded that the answer depends on the specifics of each Fund, including the size of the Fund's universe of potential portfolio selections, the mechanics of how the Fund's Proxy Portfolio is constructed in relationship to the Fund's portfolio holdings, the type of information disclosed about the Fund's portfolio holdings, and the degree of overlap between the Fund's Proxy Portfolio and its portfolio holdings. The Funds would disclose this risk to investors. *See* application at 16.

[41] *See* application at 12.

[42] Capitalized terms not otherwise defined herein shall have the same meaning as in the application.

transact with the Fund) to acquire any deposit instrument for a Fund through a transaction in which the Fund could not engage directly.

6. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of actively managed ETFs that disclose a proxy portfolio on each business day, without fully disclosing the ETF's entire portfolio at the same time.

7. Each Fund will provide the Commission staff with periodic reports (for which confidential treatment may be requested) containing such information as the Commission staff may request.

8. Each Fund and each person acting on behalf of a Fund will comply with and agree to be subject to the requirements of Regulation Fair Disclosure as if it applied to them (except that the exemptions provided in Rule 100(b)(2)(iii) therein shall not apply).

9. Each Fund will maintain and preserve, for a period of not less than five years, in an easily accessible place, (i) all written agreements (or copies thereof) between an Authorized Participant and the Fund or one of its service providers that allows the Authorized Participant to place orders for the purchase or redemption of creation units; (ii) a copy of the Proxy Portfolio published on the Fund's website for each business day; and (iii) a list of all creation or redemption baskets exchanged with an Authorized Participant where cash was included in the basket *in lieu* of some or all of the Proxy Portfolio securities (except for cash included because the securities are not eligible for trading by the Authorized Participant or the investor on whose behalf the Authorized Participant is acting), the amount of any such cash *in lieu* and the identity of the Authorized Participant conducting the transaction.

*B. Section 12(d)(1) Relief*

10. The members of the Investing Fund's Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of the Investing Fund's Sub-Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Investing Fund's Advisory Group or the Investing Fund's Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Investing Fund's Sub-Advisory Group with respect to a Fund for which the Investing Fund Sub-Adviser or a person controlling, controlled by or under common control with the Investing Fund Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

11. No Investing Fund or Investing Fund Affiliate will cause any existing or potential investment by the Investing Fund in a Fund to influence the terms of any services or transactions between the Investing Fund or an Investing Fund Affiliate and the Fund or a Fund Affiliate.

12. The board of directors or trustees of an Investing Management Company, including a majority of the independent directors or trustees, will adopt procedures reasonably designed to ensure that the Investing Fund Adviser and any Investing Fund Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or an Investing Fund Affiliate from a Fund or a Fund Affiliate in connection with any services or transactions.

13. Once an investment by an Investing Fund in the Shares of a Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, the Board of a Fund, including a majority of the independent directors or trustees, will determine that any consideration paid by the Fund to the Investing Fund or an Investing Fund Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

14. The Investing Fund Adviser, or Trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Investing Fund in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b-l under the Act) received from a Fund by the Investing Fund Adviser, or Trustee or Sponsor, or an affiliated person of the Investing Fund Adviser, or Trustee or Sponsor, other than any advisory fees paid to the Investing Fund Adviser, or Trustee or Sponsor, or its affiliated person by the Fund, in connection with the investment by the Investing Fund in the Fund. Any Investing Fund Sub-Adviser will waive fees otherwise payable to the Investing Fund Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Investing Fund Sub-Adviser, or an affiliated person of the Investing Fund Sub-Adviser, other than any advisory fees paid to the Investing Fund Sub-Adviser or its affiliated person by the Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Investing Fund Sub-Adviser. In the event that the Investing Fund Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

15. No Investing Fund or Investing Fund Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an Affiliated Underwriting.

16. The Board of a Fund, including a majority of the independent directors or trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Investing Fund in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The

Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

17. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

18. Before investing in a Fund in excess of the limits in section 12(d)(1)(A), an Investing Fund will execute a FOF Participation Agreement with the Fund stating that their respective boards of directors or trustees and their investment advisers, or Trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), an Investing Fund will notify the Fund of the investment. At such time, the Investing Fund will also transmit to the Fund a list of the names of each Investing Fund Affiliate and Underwriting Affiliate. The Investing Fund will notify the Fund of any changes to the list as soon as reasonably practicable after a change occurs. The Fund and the Investing Fund will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

19. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company, including a majority of the independent directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Investing Management Company.

20. Any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in FINRA Rule 2341.

21. No Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

By the Commission,

**Jill M. Peterson,**

*Assistant Secretary.*

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**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–87541; File No. SR–NYSECHX–2019–20]**

## Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Fee Schedule of NYSE Chicago, Inc. in Connection With the Exchange's Transition to Trading to the Pillar Trading Platform

November 14, 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 November 12, 2019 the NYSE Chicago, Inc. (''NYSE Chicago'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Fee Schedule of NYSE Chicago, Inc. (the ''Fee Schedule'') in connection with the Exchange's transition to trading to the Pillar trading platform. The Exchange proposes to implement the fee change effective November 12, 2019. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

On November 4, 2019, the Exchange transitioned to trading on Pillar.[4] Pillar is an integrated trading technology platform designed to use a single specification for connecting to the equities and options markets operated by the Exchange and its affiliates, NYSE Arca, Inc. (''NYSE Arca''), NYSE American, LLC (''NYSE American''), NYSE National, Inc. (''NYSE National''), and New York Stock Exchange LLC (''NYSE''). With Pillar, the Exchange transitioned its cash equities trading platform to a fully automated price-time priority allocation model that trades all Regulation National Market System (''NMS'') Stocks.

In connection with this transition, the Exchange proposes to amend the Fee Schedule for trading on the Pillar platform, and to eliminate certain other fees that would no longer be applicable. The Exchange proposes to implement

[4] *See* Trader Update, available at *https://www.nyse.com/publicdocs/nyse/notifications/trader-update/NYSEChicago_Migration_update_9.4.pdf. See also* Securities Exchange Act Release No. 87264 (October 9, 2019), 84 FR 55345 (October 16, 2019) (SR–NYSECHX–2019–08).

the fee changes effective November 12, 2019.[5]

Background

The Exchange operates in a highly competitive environment. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [6]

As the Commission itself recognized, the market for trading services in NMS stocks has become ''more fragmented and competitive.'' [7] Indeed, equity trading is currently dispersed across 13 exchanges,[8] 31 alternative trading systems,[9] and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information for August 2019, no single exchange has more than 19% market share (whether including or excluding auction volume).[10] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, in September 2019, the Exchange had 0.47% market share of executed volume of non-auction equity trading.[11]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products. While it is not possible to know a firm's reason for shifting order flow, the Exchange believes that one such reason is because of fee changes at any of the registered exchanges or non-exchange venues to which a firm routes order flow.

Proposed Rule Change

Pursuant to Section E.1 of the Fee Schedule, the Exchange currently charges a fee for removing liquidity and provides a credit for adding liquidity for orders in Tape A, B and C securities. For each of Tape A, B and C securities with a share price equal to or greater than $1.00, the Exchange charges a fee of $0.0030 per share for orders that remove liquidity and provides a credit of $0.0020 per share for orders that provide liquidity. For each of Tape A, B and C securities with a share price less than $1.00, the Exchange charges a fee that is equal to 0.10% of trade value [12] for orders that remove liquidity and provides a credit of $0.0009 per share for orders that provide liquidity.

The Exchange proposes the following transaction fees for trading on its Pillar trading platform. For each of Tape A, B and C securities with a share price equal to or greater than $1.00, the Exchange proposes a fee of $0.0010 per share for orders that remove liquidity and for orders that add liquidity. For each of Tape A, B and C securities with a share price less than $1.00, the Exchange proposes a fee that is equal to 0.10% of trade value for orders that remove liquidity and for orders that add liquidity.

Section E.1 currently provides that the fees under this section are for Matching System executions resulting from single-sided orders submitted as at least a Round Lot. The Exchange proposes to remove ''submitted as at least a Round Lot'' from the text of the Fee Schedule as the proposed fees would apply to all orders, including round lot and odd lot orders. Further, as described below, the Exchange is proposing to delete pricing applicable to odd lot orders from the Fee Schedule, and as such, the proposed fees under Section E.1 would apply to odd lot orders also.

Additionally, with this proposed rule change, the Exchange would no longer provide credits for orders that add liquidity. Accordingly, the Exchange proposes to delete paragraphs (b) and (c) under Section E.1 as each of those paragraphs refer to credits that would no longer be payable by the Exchange. The Exchange also proposes to remove the reference to ''credits attributed'' found in Section E.1 and the reference to ''attributed credits pursuant to Section E.1(b) and (c)'' found in Section E.3(a)(2). The Exchange also proposes to amend the text of paragraph (a) under Section E.1 to make clear that the both the liquidity removing fee and the liquidity providing fee shall not be charged to any Institutional Brokers, as Institutional Brokers are and would continue to be subject to fees under Section E.3. Finally, the Exchange proposes to delete the conditional requirement found in Sections E.1 and E.3 of the Fee Schedule. Specifically, the Exchange proposes to delete the term ''Subject to Section E.9 below'' from Sections E.1 and E.3 because the Fee Schedule no longer has a Section E.9. Section E.9 previously provided fees for certain executions that resulted from a functionality that has since been decommissioned. The Exchange inadvertently failed to previously delete reference to Section E.9 found in Sections E.1 and E.3 from the Fee Schedule and proposes to do so now.[13]

Section E.4 currently provides that a fee of $0.0040 per share applies for the execution of orders submitted as odd lots during all trading sessions.[14] With this proposed rule change, the Exchange would no longer distinguish between executions of round lot orders and odd lot orders and would charge the same fee for all orders pursuant to the proposed fees under Section E.1. Accordingly, the Exchange proposes to remove the text within Section E.4 of the Fee Schedule in its entirety, replacing it with ''Reserved.''

Section E.8 currently provides a formula-based order cancellation fee which assesses a daily cancellation fee per trading account symbol, if the order cancellation ratio exceeds a designated threshold.[15] Historically, the

[5] The Exchange originally filed to amend the Fee Schedule on November 4, 2019 (SR–NYSECHX–2019–18). SR–NYSECHX–2019–18 was subsequently withdrawn and replaced by this filing.

[6] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[7] *See* Securities Exchange Act Release No. 51808, 84 FR 5202, 5253 (February 20, 2019) (File No. S7–05–18) (Transaction Fee Pilot for NMS Stocks Final Rule).

[8] *See* Cboe U.S Equities Market Volume Summary at *https://markets.cboe.com/us/equities/market_share. See generally https://www.sec.gov/fast-answers/divisionsmarketregmr exchangesshtml.html.*

[9] *See* FINRA ATS Transparency Data, *available at https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[10] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[11] *See id.*

[12] ''Trade value'' means a dollar amount equal to the price per share multiplied by the number of shares executed. *See* Fee Schedule.

[13] *See* Securities Exchange Act Release No. 85248 (March 5, 2019), 84 FR 8773 (March 11, 2019) (SR–NYSECHX–2019–01). *See also* Exchange Act Release No. 84852 (December 19, 2018), 83 FR 66808 (December 27, 2018) (SR–CHX–2018–09).

[14] *See* Securities Exchange Act Release No. 54657 (October 26, 2006), 71 FR 64590 (November 2, 2006) (SR–CHX–2006–29). *See also* Securities Exchange Act Release Nos. 64953 (July 25, 2011), 76 FR 45626 (July 29, 2011) (SR–CHX–2011–19); 73814 (December 11, 2014), 79 FR 75203 (December 17, 2014) (SR–CHX–2014–19); and 77785 (May 9, 2016), 81 FR 29936 (May 13, 2016) (SR–CHX–2016–06).

[15] *See* Securities Exchange Act Release No. 61392 (January 21, 2010), 75 FR 4436 (January 27, 2010) (SR–CHX–2010–02). *See also* Securities Exchange Act Release Nos. 62642 (August 4, 2010), 75 FR 48404 (August 10, 2010) (SR–CHX–2010–19); 68219 (November 13, 2012), 77 FR 69673 (November 20, 2012) (SR–CHX–2012–15); 69701 (June 5, 2013), 78 FR 35082 (June 11, 2013) (SR–CHX–2013–11); 69903 (July 1, 2013), 78 FR 40788 (July 8, 2013) (SR–CHX–2013–12; and 71404 (January 27, 2014), 79 FR 5476 (January 31, 2014) (SR–CHX–2014–01).

cancellation fee was adopted so the Exchange could recoup some of the costs associated with administering and processing large numbers of cancelled orders and to incent Participants to post marketable orders, and thereby, promote liquidity and single-sided executions on the Exchange. With this proposed rule change, the Exchange would no longer assess the cancellation fee and proposes to remove the fee from the Fee Schedule.

Section I of the Fee Schedule currently provides listing fees charged by the Exchange.[16] More specifically, Section I.1 provides fees for original listings; Section I.2 provides the fees for annual maintenance; Section I.3 provides the fees for supplemental listings; and Section I.4 provides miscellaneous fees related to listings on the Exchange. On Pillar, the Exchange would no longer be a primary listing venue and would no longer charge the listing fees found in Section I of the Fee Schedule.[17] Accordingly, the Exchange proposes to remove the text within Section I of the Fee Schedule in its entirety, replacing it with ''Reserved.''

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[18] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[19] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Rule Change Is Reasonable

As discussed above, the Exchange operates in a highly fragmented and competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [20]

As the Commission itself recognized, the market for trading services in NMS stocks has become ''more fragmented and competitive.'' [21] Indeed, equity trading is currently dispersed across 13 exchanges,[22] 31 alternative trading systems,[23] and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange has more than 19% market share (whether including or excluding auction volume).[24] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, as noted earlier, the Exchange averaged less than 1% market share of executed volume of equity trades (excluding auction volume) [25] for September 2019.

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue to reduce use of certain categories of products, in response to fee changes. With respect to non-marketable orders which provide liquidity on an Exchange, Participants can choose from any one of the 13 currently operating registered exchanges to route such order flow. Accordingly, competitive forces reasonably constrain exchange transaction fees that relate to orders that would provide displayed liquidity on an exchange. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

The Exchange believes that charging $0.0010 per share for securities priced at or above $1.00 and 0.10% of the total dollar value of the transaction for securities priced below $1.00 for executions on the Exchange of single-sided orders that add liquidity and that remove liquidity to the Exchange is reasonable because the proposed rate would be comparable to the fee charged by other exchanges.[26] With this proposed rule change, the Exchange proposes to standardize the fee for adding and removing liquidity for all orders executed by Participants on the Exchange. The Exchange believes it is reasonable to amend the rule text in Section E.1(a) to clarify that, with this proposed rule change, all liquidity providing orders and all liquidity removing orders executed by Participants on the Exchange would be charged the same fee and that the liquidity removing fee and the liquidity providing fee shall not be charged to any Institutional Brokers, as Institutional Brokers are and would continue to be subject to fees under Section E.3.

The Exchange believes it is reasonable to charge odd lot orders the same fee that is charged for round lot orders, and to delete the part of the Fee Schedule that provided fees specifically for odd lot orders. The Exchange believes the proposed rule change, which would result in lower fees for the execution of odd lot orders on the Exchange, would provide an incentive to Participants to direct their odd lot order flow to the Exchange. This in turn would provide the Exchange with potential order flow as it transitions to the Pillar trading platform.

The Exchange believes that it is reasonable to eliminate the cancellation fee, and to delete the part of the Fee Schedule that provided the cancellation fee. The cancellation fee was originally introduced in response to capacity concerns stemming from Participants generating significant order traffic that did not result in executed trades due to orders being cancelled at high rates. In the time since the cancellation fee was adopted, the fee has become less important as the Exchange over time has generally improved its technology and the Exchange believes that maintaining the fee is no longer necessary. The Exchange believes that this fee may inadvertently discourage Participants to enter additional orders on the Exchange.

The Exchange believes it is reasonable to eliminate the listing fees from the Fee Schedule, and to delete the part of the Fee Schedule that provided the listing fees, because once the Exchange

[16] *See* Securities Exchange Act Release Nos. 54657 (October 26, 2006), 71 FR 64590 (November 2, 2006) (SR–CHX–2006–29); and 68620 (January 10, 2013), 78 FR 3485 (January 16, 2013) (SR–CHX–2012–20).

[17] *See* Trader Update, available at *https://www.nyse.com/publicdocs/nyse/notifications/trader-update/NYSEChicago_Migration_update_9.4.pdf. See also* Securities Exchange Act Release No. 87264 (October 9, 2019), 84 FR 55345 (October 16, 2019) (SR–NYSECHX–2019–08).

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(4) and (5).

[20] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[21] *See* Securities Exchange Act Release No. 51808, 84 FR 5202, 5253 (February 20, 2019) (File No. S7–05–18) (Final Rule).

[22] *See* Cboe Global Markets, U.S Equities Market Volume Summary, available at *https://markets.cboe.com/us/equities/market_share.*

[23] *See* FINRA ATS Transparency Data, *available at https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[24] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[25] *See* note 11, *supra.*

[26] IEX, for instance, charges a fee of $0.0009 per share for providing non-displayed liquidity for securities priced at or above $1.00 and 0.30% of TDV (*i.e.,* the total dollar value of the transaction calculated as the execution price) for securities priced below $1.00. *See* Investors Exchange Fee Schedule, available at *https://iextrading.com/trading/fees/.*

transitions to Pillar, the Exchange would no longer be a primary listing market and therefore, removal of the listing fees from the Fee Schedule would increase transparency to the fees that would be applicable on the Exchange and would reduce investor confusion.

The Exchange believes that the proposal to delete obsolete text under Sections E.1 and E.3 of the Fee Schedule would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because the proposed fee change would remove text from the Fee Schedule related to fees that no longer exist and therefore reduce any potential ambiguity and provide clarification with respect to fees that are applicable on the Exchange.

The Proposed Rule Change Is an Equitable Allocation of Fees and Credits

The Exchange believes its proposal equitably allocates its fees among its market participants.

First, the Exchange is proposing to adopt a standardized rate for orders that add liquidity and orders that remove liquidity. The Exchange believes the proposed revised fee structure would simplify the fees charged by the Exchange to Participants that transact on the Exchange as all liquidity providing orders and all liquidity removing orders executed by Participants on the Exchange would be charged the same fee. As a result, the proposal should encourage Participants to direct orders that add liquidity and remove liquidity, as the case may be, thereby contributing to robust levels of trading, which would benefit all market participants. The proposed change will encourage the submission of a greater number of orders to a national securities exchange, thus promoting price discovery and transparency and enhancing order execution opportunities for Participants on the Exchange. However, without having a view of Participant's activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in a change in trading behavior by Participants. However, the Exchange believes that standardizing the adding and removing fees by adopting a single fee would result in a simpler fee structure which may provide an incentive for Participants to continue to submit orders to the Exchange, and thereby promote price discovery and increased execution opportunities for all Participants. The Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more liquidity to the Exchange, thereby improving market-wide quality and price discovery.

The Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more liquidity to the Exchange thereby improving market-wide quality. The proposal neither targets nor will it have a disparate impact on any particular category of market participant. The Exchange believes that recalibrating the fees for orders that add and that remove liquidity would continue to attract order flow and liquidity to the Exchange for the benefit of investors generally.

The Exchange further believes the proposed rule change to remove sections related to fees for odd lot orders, cancellation fee and listing fees from the Fee Schedule and the deletion of obsolete fees is equitable because such fees are no longer applicable or would no longer be applicable once the Exchange has transitioned to the Pillar trading platform. The Exchange believes this will more clearly identify currently applicable fees, which the Exchange believes removes impediments to and perfects the mechanism of a free and open market. The Exchange believes the proposed rule change will eliminate confusion regarding which fees apply to current trading, which ultimately protects investors and the public interest.

The Proposed Rule Change Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. In the prevailing competitive environment, Participants are free to disfavor the Exchange's pricing if they believe that alternatives offer them better value.

The proposal to adopt standardized fees for orders that add liquidity and for orders that remove liquidity neither targets nor will it have a disparate impact on any particular category of market participant. The proposal does not permit unfair discrimination because the proposed standardized fees would be applied to all similarly Participants, who would all be eligible for the same fee on an equal basis. Accordingly, no Participant already operating on the Exchange would be disadvantaged by this allocation of fees.

The Exchange believes the proposed rule change to charge odd lot orders the same fee that is charged to round lot orders, and to delete the part of the Fee Schedule that provided fees specifically for odd lot orders, is not unfairly discriminatory as the proposed fees for odd lot orders would apply on an equal basis to all Participants that send odd lot orders to the Exchange.

The Exchange believes the proposed rule change to eliminate the cancellation fee, and to delete the part of the Fee Schedule that provided the cancellation fee, is not unfairly discriminatory as the proposed elimination of the fee would apply equally to all Participants, who will no longer be subject to any cancellation fees, resulting in lower fees for Participants.

The Exchange believes the proposed rule change to eliminate the listing fees, and to delete the part of the Fee Schedule that provided the listing fees, is not unfairly discriminatory as the proposed elimination of the fee would apply equally to all Participants, who will no longer be subject to any listing fees.

The Exchange believes the proposed rule change to delete references to Section E.9 from the Fee Schedule, which no longer exists, is not unfairly discriminatory because the proposed deletion would alleviate confusion and maintain clarity in the Fee Schedule, and would apply to all Participants on an equal basis.

Finally, the submission of orders to the Exchange is optional for Participants in that they could choose whether to submit orders to the Exchange and, if they do, the extent of its activity in this regard. The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition. For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[27] the Exchange believes 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. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of orders to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for Participants. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which

[27] 15 U.S.C. 78f(b)(8).

promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [28]

Intramarket Competition

The proposed rule change is designed to attract order flow to the Exchange, and thereby, increased liquidity. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages Participants, to send orders, thereby contributing to robust levels of liquidity, which benefit all market participants. The Exchange does not believe that the proposed rule change will impair the ability of Participants to compete in the financial markets. There are 13 exchanges, 31 alternative trading systems, and numerous broker-dealer internalizers and wholesalers, all competing for order flow from which Participants may choose to send their quotes and trades. The Exchange also does not believe the proposed rule change would impact intramarket competition as the proposed rule change would apply to all Participants equally that transact on the Exchange, and therefore the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition

The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee and rebate levels at those other venues to be more favorable. As noted earlier, the Exchange's market share of intraday trading (*i.e.,* excluding auctions) was 0.47% in September 2019. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe the proposed change can impose any burden on intermarket competition.

The Exchange believes that the proposed rule change could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [29] of the Act and subparagraph (f)(2) of Rule 19b–4 [30] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [31] of the Act to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSECHX–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–NYSECHX–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 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–NYSECHX–2019–20 and should be submitted on or before December 11, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–25107 Filed 11–19–19; 8:45 am]

**BILLING CODE 8011–01–P**

[28] *See* Securities Exchange Act Release No. 51808, 70 FR 37495, 37498–99 (June 29, 2005) (S7–10–04) (Final Rule).

[29] 15 U.S.C. 78s(b)(3)(A).

[30] 17 CFR 240.19b–4(f)(2).

[31] 15 U.S.C. 78s(b)(2)(B).

[32] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–87543; File No. SR–CboeBYX–2019–021]**

## Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule Applicable to the BYX Equities Trading Platform as it Relates to Pricing for Orders Routed to Cboe EDGA Exchange, Inc. Using the ALLB, TRIM, or SLIM Routing Strategy

November 14, 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 November 13, 2019, Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

Cboe BYX Exchange, Inc. (''BYX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (the ''Commission'') a proposed rule change to amend the fee schedule applicable to the BYX equities trading platform (''BYX Equities'') as it relates to pricing for orders routed to Cboe EDGA Exchange, Inc. (''EDGA'') using the ALLB, TRIM, or SLIM routing strategy. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/byx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend the BYX Equities fee schedule to change the pricing applicable to orders routed to EDGA using the ALLB, TRIM, or SLIM routing strategy, as a result of a recent pricing change by EDGA effective on November 1, 2019.[3] The Exchange proposes to implement the proposed change to its fee schedule on November 1, 2019. Currently, the Exchange provides a rebate of $0.0024 per share for orders routed to EDGA using the ALLB, TRIM, or SLIM routing strategy (yielding fee codes AA and BJ), which was a pass-through of the standard rebate EDGA had previously provided to orders that removed liquidity from EDGA. Effective November 1, 2019, EDGA reduced its standard rebate per share for orders that remove liquidity in securities priced at or above $1.00 from $0.0024 to $0.0018. As such, the Exchange proposes to similarly reduce the per share rebate for orders routed to EDGA (yielding fee codes AA and BJ) from $0.0024 to $0.0018 in order to reflect the reduction in the rebate available for orders removing liquidity on EDGA.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act.[4] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[5] which requires that Exchange Rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient.

In particular, the Exchange believes that the proposed change is reasonable because it reflects a pass-through of a recent pricing change by EDGA for liquidity removing orders, as described above. The Exchange believes that the proposed change is reasonable because it will maintain proportionality with the standard corresponding rebate offered by EDGA while also maintaining Member interest in routing orders through the Exchange by passing on better pricing to Members that choose to enter such orders on the Exchange, thereby encouraging additional order flow to be entered on the BYX Book. The Exchange believes that additional order flow through the BYX Book will result in greater liquidity to the benefit of all market participants on the Exchange by providing more trading opportunities.

The Exchange also believes that the proposed change constitutes an equitable allocation of reasonable fees that is not unfairly discriminatory because the proposed rebate is designed to continue to reflect the rebate offered (and recently updated) by EDGA to orders that remove liquidity and would apply equally to all Members that choose to use the Exchange to route liquidity removing orders to EDGA. Furthermore, the Exchange notes that routing through the Exchange is voluntary, and, because the Exchange operates in a highly competitive environment as discussed below, Members that do not favor the proposed pricing can readily direct order flow directly to EDGA or through competing venues or providers of routing services.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange believes the proposed routing fee change will not impose an undue burden on competition because the proposed rebate is merely intended to maintain consistency between the Exchange's rebates for orders routed to EDGA with the rebates currently offered by EDGA for liquidity removing orders.

The Exchange does not believe the proposed rebate will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As stated, the Exchange will uniformly assess the proposed routing fee on all Members who choose to route orders through the Exchange to EDGA. As noted above, the proposed rebate intends pass through the same rebates for liquidity removing orders from EDGA on to Members, thereby, adding order flow to the BYX Book which will result in more trading opportunities to the benefit of all market participants on the Exchange.

The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, the Exchange operates in a highly competitive market and routing through the Exchange is voluntary. Therefore, Members may opt to disfavor the Exchange's pricing if they believe that alternatives, including 12 other equities exchanges and 32 alternative trading systems, offer them better value or if they disfavor the proposed change. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 17% of the market share.[6] Therefore, no exchange

[3] *See* SR–CboeEDGA–2019–019 (filed November 13, 2019).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

[6] *See* Cboe Global Markets U.S. Equities Market Volume Summary (October 28, 2019), available at

Continued

possesses significant pricing power in the execution of equity order flow. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation National Market System (''NMS''), the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [7] The fact that this market is competitive has also long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''. [8] Regardless, the Exchange notes that the proposed change to the EDGA-related routing fee is merely meant to pass through the rebate associated with executing orders on that market, and is therefore not designed to have any significant impact on competition. Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others*

No written comments were either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [9] of the Act and subparagraph (f)(2) of Rule 19b–4 [10] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [11] of the Act to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–CboeBYX–2019–021 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File No. SR–CboeBYX–2019–021. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–CboeBYX–2019–021, and should be submitted on or before December 11, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–25106 Filed 11–19–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* U.S. Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

*Extension:*

Rule 17a–13, SEC File No. 270- 27, OMB Control No. 3235–0035

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 17a–13 (17 CFR 240.17a–13) under the Securities Exchange Act of 1934 (15 U.S. C. 78a *et seq.*) (''Exchange Act'').

Rule 17a–13(b) (17 CFR 240.17a–13(b)) generally requires that at least once each calendar quarter, all registered brokers-dealers physically examine and count all securities held, and that they account for all other securities not in their possession, but subject to the broker-dealer's control or direction. Any discrepancies between the broker-dealer's securities count and the firm's records must be noted and, within seven days, the unaccounted for difference must be recorded in the firm's records. Rule 17a–13(c) (17 CFR 240.17a–13(c)) provides that under

*http://markets.cboe.com/us/equities/market__share/.*

[7] *See* Securities Exchange Act Release No. 51808 (June 9, 2005) 70 FR 37496 (June 29, 2005).

[8] *NetCoalition* v. *Securities and Exchange Commission*, 615 F.3d 525 (D.C. Cir. 2010).).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(2).

[11] 15 U.S.C. 78s(b)(2)(B).

[12] 17 CFR 200.30–3(a)(12).

specified conditions, the count, examination, and verification of the broker-dealer's entire list of securities may be conducted on a cyclical basis rather than on a certain date. Although Rule 17a–13 does not require broker-dealers to file a report with the Commission, discrepancies between a broker-dealer's records and the securities counts may be required to be reported, for example, as a loss on Form X–17a–5 (17 CFR 248.617), which must be filed with the Commission under Exchange Act Rule 17a–5 (17 CFR 240.17a–5). Rule 17a–13 exempts broker-dealers that limit their business to the sale and redemption of securities of registered investment companies and interests or participation in an insurance company separate account and those who solicit accounts for federally insured savings and loan associations, provided that such persons promptly transmit all funds and securities and hold no customer funds and securities. Rule 17a–13 also does not apply to certain broker-dealers required to register only because they effect transactions in securities futures products.

The information obtained from Rule 17a–13 is used as an inventory control device to monitor a broker-dealer's ability to account for all securities held in transfer, in transit, pledged, loaned, borrowed, deposited, or otherwise subject to the firm's control or direction. Discrepancies between the securities counts and the broker-dealer's records alert the Commission and the self-regulatory organizations (''SROs'') to those firms experiencing back-office operational issues.

As of June 30, 2019, there are approximately 3,744 broker-dealers registered with the Commission. However, given the variability in their businesses, it is difficult to quantify how many hours per year each broker-dealer spends complying with Rule 17a–13. As noted, Rule 17a–13 requires a broker-dealer to account for all securities in its possession or subject to its control or direction. Many broker-dealers hold few, if any, securities; while others hold large quantities. Therefore, the time burden of complying with Rule 17a–13 will depend on respondent-specific factors, including a broker-dealer's size, number of customers, and proprietary trading activity. The staff estimates that the average time spent per respondent is 100 hours per year on an ongoing basis to maintain the records required under Rule 17a–13. This estimate takes into account the fact that more than half of the 3,744 respondents—according to financial reports filed with the Commission—may spend little or no time complying with Rule 17a–13, given that they do not do a public securities business or do not hold inventories of securities. For these reasons, the staff estimates that the total compliance burden per year is 374,400 hours (3,744 respondents × 100 hours/respondent).

The records required to be made by Rule 17a–13 are available only to Commission examination staff, state securities authorities, and applicable SROs. Subject to the provisions of the Freedom of Information Act, 5 U.S.C. 522, and the Commission's rules thereunder (17 CFR 200.80(b)(4)(iii)), the Commission does not generally publish or make available information contained in any reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an examination or inspection of the books and records of any person or any other investigation.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov;* and (ii) Charles Riddle, ≤Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: November 14, 2019.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–25094 Filed 11–19–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

*Extension:*

Regulation S–AM, SEC File No. 270–548, OMB Control No. 3235–0609

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Regulation S–AM (17 CFR part 248, subpart B), under the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*) (''FCRA''), the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*), and the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 *et seq.*).

Regulation S–AM implements the requirements of Section 624 of the FCRA (15 U.S.C. 1681s–3) with respect to investment advisers and transfer agents registered with the Commission, as well as brokers, dealers and investment companies (collectively, ''Covered Persons''). Section 624 and Regulation S–AM limit a Covered Person's use of certain consumer financial information received from an affiliate to solicit a consumer for marketing purposes, unless the consumer has been given notice and a reasonable opportunity and a reasonable and simple method to opt out of such solicitations. Regulation S–AM potentially applies to all of the approximately 20,195 Covered Persons registered with the Commission, although only approximately 11,309 of them have one or more corporate affiliates, and the regulation requires only approximately 2,020 to provide consumers with an affiliate marketing notice and an opt-out opportunity.

The Commission staff estimates that there are approximately 11,309 Covered Persons having one or more affiliates, and that they each spend an average of 0.20 hours per year to review affiliate marketing practices, for, collectively, an estimated annual time burden of 2,262 hours at an annual internal compliance cost of approximately $1,203,384. The staff also estimates that approximately 2,020 Covered Persons provide notice and opt-out opportunities to consumers, and that they each spend an average of 7.6 hours per year creating notices, providing notices and opt-out opportunities, monitoring the opt-out notice process, making and updating records of opt-out elections, and addressing consumer questions and concerns about opt-out notices, for, collectively, an estimated annual time burden of 15,352 hours at an annual

internal compliance cost of approximately $2,999,296. Thus, the staff estimates that the collection of information requires a total of approximately 11,309 respondents to incur an estimated annual time burden of a total of 17,614 hours at a total annual internal cost of compliance of approximately $4,202,680.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov;* and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: November 14, 2019.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–25098 Filed 11–19–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–87538; File No. SR–NASDAQ–2019–087]**

## Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Certain Annual Listing Fees

November 14, 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 November 6, 2019, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, 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 modify certain listing fees. While changes proposed herein are effective upon filing, the Exchange has designated the proposed amendments to be operative on January 1, 2020.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to modify the Exchange's all-inclusive annual listing fees for all domestic and foreign companies listing equity securities covered by Listing Rules 5910 and 5920 on the Nasdaq Global Select, Global and Capital Markets.

Currently, for companies listed on the Capital Market, other than, in part, ADRs, Closed-end Funds and Limited Partnerships, the all-inclusive annual fee ranges from $42,000 to $75,000; for ADRs listed on the Capital Market the all-inclusive annual fee ranges from $42,000 to $50,000; and for Limited Partnerships listed on the Capital Market the all-inclusive annual fee ranges from $30,000 to $37,500. On the Global and Global Select Markets, the all-inclusive annual fee for companies other than, in part, ADRs, Closed-end Funds and Limited Partnerships ranges from $45,000 to $155,000; for ADRs the all-inclusive annual fee ranges from $45,000 to $80,000; and for Limited Partnerships the all-inclusive annual fee ranges from $37,500 to $77,500. The all-inclusive annual fee for Closed-end Funds listed on any market tier ranges from $30,000 to $100,000. In each case, a company's all-inclusive annual fee is based on its total shares outstanding.[3]

Nasdaq proposes to amend the all-inclusive annual fee for all domestic and foreign companies listing equity securities on the Nasdaq Global Select, Global and Capital Markets to the following amounts,[4] effective January 1, 2020:

GLOBAL/GLOBAL SELECT MARKETS

| Total shares outstanding | Annual fee before the proposed change | Annual fee effective January 1, 2020 |
|---|---|---|
| Equity securities other than, in part, ADRs, Closed-end Funds and Limited Partnerships: | | |
| Up to 10 million shares | $45,000 | $46,000 |
| 10+ to 50 million shares | 55,000 | 56,500 |
| 50+ to 75 million shares | 75,000 | 77,000 |

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] REITs are subject to the same fee schedule as other equity securities; however for the purpose of determining the total shares outstanding, shares outstanding of all members in a REIT Family listed on the same Nasdaq market tier may be aggregated. Similarly, for the purpose of determining the total shares outstanding, fund sponsors may aggregate shares outstanding of all Closed-End Funds in the same fund family listed on the Nasdaq Global Market or the Nasdaq Capital Market. *See* Listing Rules 5910(b)(2) and 5920(b)(2).

[4] The proposed fee change reflects about 2.5% increase rounded to the nearest $500.

GLOBAL/GLOBAL SELECT MARKETS—Continued

| Total shares outstanding | Annual fee before the proposed change | Annual fee effective January 1, 2020 |
|---|---|---|
| 75+ to 100 million shares | 100,000 | 102,500 |
| 100+ to 125 million shares | 125,000 | 128,000 |
| 125+ to 150 million shares | 135,000 | 138,500 |
| Over 150 million shares | 155,000 | 159,000 |
| ADRs: | | |
| Up to 10 million ADRs and other listed equity securities | 45,000 | 46,000 |
| 10+ to 50 million ADRs and other listed equity securities | 50,000 | 51,500 |
| 50+ to 75 million ADRs and other listed equity securities | 60,000 | 61,500 |
| Over 75 million ADRs and other listed equity securities | 80,000 | 82,000 |
| Closed-end Funds: | | |
| Up to 50 million shares | 30,000 | 31,000 |
| 50+ to 100 million shares | 50,000 | 51,500 |
| 100+ to 250 million shares | 75,000 | 77,000 |
| Over 250 million shares | 100,000 | 102,500 |
| Limited Partnerships: | | |
| Up to 75 million shares | 37,500 | 38,500 |
| 75+ to 100 million shares | 50,000 | 51,500 |
| 100+ to 125 million shares | 62,500 | 64,000 |
| 125+ to 150 million shares | 67,500 | 69,000 |
| Over 150 million shares | 77,500 | 79,500 |

CAPITAL MARKET

| Total shares outstanding | Annual fee before the proposed change | Annual fee effective January 1, 2020 |
|---|---|---|
| Equity securities other than, in part, ADRs, Closed-end Funds and Limited Partnerships: | | |
| Up to 10 million shares | $42,000 | $43,000 |
| 10+ to 50 million shares | 55,000 | 56,500 |
| Over 50 million shares | 75,000 | 77,000 |
| ADRs: | | |
| Up to 10 million ADRs and other listed equity securities | 42,000 | 43,000 |
| Over 10 million ADRs and other listed equity securities | 50,000 | 51,500 |
| Closed-end Funds: | | |
| Up to 50 million shares | 30,000 | 31,000 |
| 50+ to 100 million shares | 50,000 | 51,500 |
| 100+ to 250 million shares | 75,000 | 77,000 |
| Over 250 million shares | 100,000 | 102,500 |
| Limited Partnerships: | | |
| Up to 75 million shares | 30,000 | 31,000 |
| Over 75 million shares | 37,500 | 38,500 |

Nasdaq also proposes to update the maximum fee applicable to a Closed-End Fund family and the maximum fee applicable to a REIT Family to reflect the proposed fee change for other equity securities, as described above.[5]

As described below, Nasdaq proposes to make the aforementioned fee increases to better reflect the Exchange's costs related to listing equity securities and the corresponding value of such listing to issuers.

Nasdaq also proposes to remove references to fees that are no longer applicable because they were superseded by new fee rates specified in the rule text.

While these changes are effective upon filing, Nasdaq has designated the proposed amendments to be operative on January 1, 2020.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[7] 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.

Nasdaq believes that it is not unfairly discriminatory and represents an equitable allocation of reasonable fees to amend Listing Rules 5910(b)(2) and 5920(b)(2) to increase the various listing fees[8] as set forth above because of the increased costs incurred by Nasdaq

[5] *See* footnote 3 above.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4) and (5).

[8] In 2014, Nasdaq adopted an all-inclusive annual listing fee schedule to simplify, clarify and enhance transparency around the annual fee to which listed companies are subject. *See* Securities Exchange Act Release No. 73647 (November 19, 2014), 79 FR 70232 (November 25, 2014) (SR–NASDAQ–2014–87). Effective January 1, 2017, Nasdaq reduced the fees for limited partnerships listed on Nasdaq. *See* Securities Exchange Act Release No. 79770 (January 10, 2017), 82 FR 4947 (January 17, 2017) (SR–NASDAQ–2016–173). Effective January 1, 2019, Nasdaq modified the fee schedule for ADRs listed on Nasdaq, including to subject ADRs to the same minimum fee as other companies listing equity securities on the same tier of Nasdaq and to bring the ADRs fees closer to the fees paid by other domestic and foreign companies listing equity securities on Nasdaq. *See* Securities Exchange Act Release No. 84880 (December 20, 2018), 83 FR 67374 (December 28, 2018) (SR–NASDAQ–2018–103).

since it established the current rates. In that regard, the Exchange notes that its general costs have increased since its most recent fee adjustments, including due to price inflation. In addition, the Exchange continues to improve the services it provides to listed companies. These improvements include the continued development and enhancement of Nasdaq's online tools, including the Listing Center and Reference Library, to the benefit of all listed companies, their shareholders and prospective investors. In addition, Nasdaq has invested in upgrades to the Nasdaq MarketSite, which houses a state-of-the-art digital broadcast studio and can be utilized as a New York venue by listed companies, and the MarketSite Tower. The proposed increase also will help Nasdaq continue to invest in these initiatives and its regulatory programs.

Nasdaq also believes that it is not unfairly discriminatory and represents an equitable allocation of reasonable fees to amend Listing Rules 5910(b)(2) and 5920(b)(2) to increase the various listing fees while rounding the increase to the nearest $500 as set forth above because such rounding represents di minimus variation in fees for Nasdaq listed companies. In addition, Nasdaq has used the same methodology since the adoption of the all-inclusive annual listing fee schedule and all annual listing fees under Listing Rules 5910(b)(2) and 5920(b)(2) are rounded to $500.

The proposed change to update the maximum fee applicable to a Closed-End Fund family and the maximum fee applicable to a REIT Family to reflect the proposed fee change for other equity securities, as described above, is not unfairly discriminatory because it merely reflects the change in fees for other equity securities without changing the substance of the rule.

Finally, Nasdaq notes that it operates in a highly competitive market in which market participants can readily switch exchanges if they deem the listing fees excessive.[9] In such an environment, Nasdaq must continually review its fees to assure that they remain competitive.

The proposed removal of text relating to fees that are no longer applicable is ministerial in nature and has no substantive effect.

[9] The Justice Department has noted the intense competitive environment for exchange listings. *See* ''NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. Abandon Their Proposed Acquisition Of NYSE Euronext After Justice Department Threatens Lawsuit'' (May 16, 2011), available at *http://www.justice.gov/atr/public/press_releases/2011/271214.htm.*

*B. Self-Regulatory Organization's Statement on Burden on Competition*

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The market for listing services is extremely competitive and listed companies may freely choose alternative venues, both within the U.S. and internationally. For this reason, Nasdaq does not believe that the proposed rule change will result in any burden on competition for listings.

*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.[10]

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–2019–087 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–2019–087. 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–2019–087, and should be submitted on or before December 11, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–25108 Filed 11–19–19; 8:45 am]

**BILLING CODE 8011–01–P**

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–87542; File No. SR–NYSEArca–2019–81]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To Establish Generic Listing Standards for Derivative Securities Products That Are Permitted To Operate in Reliance on Rule 6c–11 Under the Investment Company Act of 1940

November 14, 2019.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the

[1] 15 U.S.C.78s(b)(1).

''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on November 1, 2019, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') a proposed rule change 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 new Rule 5.2–E(j)(8) to establish generic listing standards for Derivative Securities Products that are permitted to operate in reliance on Rule 6c–11 under the Investment Company Act of 1940. In addition, the Exchange proposes to discontinue the quarterly reports currently required with respect to Managed Fund Shares listed on the Exchange pursuant to Commentary .01 to NYSE Arca Rule 8.600–E. The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes new Rule 5.2–E(j)(8) to establish ''generic'' listing standards for Derivative Securities Products [4] that are permitted to operate in reliance on Rule 6c–11 (''Rule 6c–11'') under the Investment Company Act of 1940 (''1940 Act'').[5] In addition, the Exchange proposes to discontinue the quarterly reports currently required with respect to Managed Fund Shares listed on the Exchange pursuant to Rule Commentary .01 to Rule 8.600–E.

The Securities and Exchange Commission (''Commission'') recently adopted Rule 6c–11 to permit exchange-traded funds (ETFs) that satisfy certain conditions to operate without obtaining an exemptive order from the Commission under the 1940 Act.[6] The regulatory framework provided in Rule 6c–11 will streamline current procedures and reduce the costs and time frames associated with bringing ETFs to market, thereby enhancing competition among ETF issuers and reducing costs for investors.[7]

Rule 19b–4(e)(1) provides that the listing and trading of a new derivative securities product by a self-regulatory organization (''SRO'') is not deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b–4,[8] if the Commission has approved, pursuant to Section 19(b) of the Act, the SRO's trading rules, procedures and listing standards for the product class that would include the new derivative securities product and the SRO has a surveillance program for the product class.[9] As contemplated by this Rule, the Exchange proposes new Rule 5.2–E(j)(8) to establish generic listing standards for Derivative Securities Products that are ETFs that are permitted to operate in reliance on Rule 6c–11. An ETF listed under proposed Rule 5.2–E(j)(8) would therefore not need a separate proposed rule change pursuant to Rule 19b–4 before it can be listed and traded on the Exchange.

The Exchange believes that the proposed generic listing rules for Exchange-Traded Fund Shares, described below, would facilitate efficient procedures for ETFs that are permitted to operate in reliance on Rule 6c–11. The Exchange further believes that the proposed rule is fully consistent with, and will further, the Commission's goals in adopting Rule 6c–11. As with Investment Company Units and Managed Fund Shares listed under the generic listing standards in NYSE Arca Rules 5.2–E(j)(3) and 8.600–E, respectively, series of Exchange-Traded Fund Shares that are permitted to operate in reliance on Rule 6c–11 would be permitted to be listed and traded on the Exchange without a prior Commission approval order or notice of effectiveness pursuant to Section 19(b) of the Act. This will significantly reduce the time frame and costs associated with bringing these securities to market, thereby promoting market competition among issuers of Exchange-Traded Fund Shares, to the benefit of the investing public.

Proposed Rule 5.2–E(j)(8)—Exchange-Traded Fund Shares

The Exchange is proposing standards that would pertain to Exchange-Traded Fund Shares to qualify for listing and trading pursuant to Rule 19b–4(e), as follows.[10]

Proposed Rule 5.2–E(j)(8)(a) would provide that the Exchange would

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The term ''Derivative Securities Product'' is defined in Rule 1.1(k) to mean a security that meets the definition of ''derivative securities product'' in Rule 19b–4(e) under the Exchange Act. 17 CFR 240.19b–4(e). As provided under Rule 19b–4(e), the term ''new derivative securities product'' means any type of option, warrant, hybrid securities product or any other security, other than a single equity option or a security futures product, whose value is based, in whole or in part, upon the performance of, or interest in, an underlying instrument. The term ''Exchange Act'' is defined in Rule 1.1(q) to mean the Securities Exchange Act of 1934, as amended.

[5] 15 U.S.C. 80a–1.

[6] *See* Release Nos. 33–10695; IC–33646; File No. S7–15–18 (Exchange-Traded Funds) (September 25, 2019), 84 FR 57162 (October 24, 2019) (the ''Rule 6c–11 Release'').

[7] In approving the rule, the Commission stated that the ''rule will modernize the regulatory framework for ETFs to reflect our more than two decades of experience with these investment products. The rule is designed to further important Commission objectives, including establishing a consistent, transparent, and efficient regulatory framework for ETFs and facilitating greater competition and innovation among ETFs.'' Rule 6c–11 Release, at 57163. The Commission also stated the following regarding the rule's impact: ''We believe rule 6c–11 will establish a regulatory framework that: (1) Reduces the expense and delay currently associated with forming and operating certain ETFs unable to rely on existing orders; and (2) creates a level playing field for ETFs that can rely on the rule. As such, the rule will enable increased product competition among certain ETF providers, which can lead to lower fees for investors, encourage financial innovation, and increase investor choice in the ETF market.'' Rule 6c–11 Release, at 57204.

[8] 17 CFR 240.19b–4(c)(1). As provided under SEC Rule 19b–4(c)(1), a stated policy, practice, or interpretation of the SRO shall be deemed to be a proposed rule change unless it is reasonably and fairly implied by an existing rule of the SRO.

[9] Currently, ''passive'' ETFs (Investment Company Units) based on an underlying index as well as actively-managed ETFs (Managed Fund Shares) are listed on the Exchange pursuant to NYSE Arca Rules 5.2–E(j)(3) and 8.600–E, respectively, and such securities are eligible for Exchange listing pursuant to Rule 19b–4(e) if they satisfy the ''generic'' listing criteria specified in those Exchange rules. The Exchange may file with the Commission a proposed rule change pursuant to Rule 19(b) of the Act to permit listing of Investment Company Units and Managed Fund Shares that do not meet the applicable generic listing criteria. Such securities may be listed and traded on the Exchange following Commission approval or notice of effectiveness of the applicable proposed rule change.

[10] Rule 6c–11 is effective December 23, 2019. Subject to approval of this proposed rule change, Exchange-Traded Fund Shares that are permitted to operate in reliance on Rule 6c–11 would be eligible for listing and trading on the Exchange under proposed Rule 5.2–E(j)(8) after that date.

consider for trading, whether by listing or pursuant to unlisted trading privileges (''UTP''), Exchange-Traded Fund Shares that meet the criteria of proposed Rule 5.2–E(j)(8).

Proposed Rule 5.2–E(j)(8)(a)(1) would provide that a Derivative Securities Product listed under proposed Rule 5.2–E(j)(8) would not need to separately meet either the initial or continued listed requirements of any other Exchange rules. For example, an ETF that satisfies the requirements of Rule 6c–11 and therefore is listed pursuant to proposed Rule 5.2–E(j)(8) and is also, for example, an Investment Company Unit, would not need to separately meet the initial or continued listed requirements of Rule 5.2–E(j)(3).

Proposed Rule 5.2–E(j)(8)(b) would specify applicability of the Rule and would provide that it is applicable only to Exchange-Traded Fund Shares. The Rule would further provide that, except to the extent inconsistent with proposed Rule 5.2–E(j)(8), or unless the context otherwise requires, Exchange rules would be applicable to the trading on the Exchange of such securities and that Exchange-Traded Fund Shares would be included within the definition of NMS Stock as defined in Rule 1.1.

Proposed Rule 5.2–E(j)(8)(c) would set forth the definitions that would be used for purposes of the proposed rule as follows:

- Proposed Rule 5.2–E(j)(8)(c)(1) would define the term ''1940 Act'' to mean the Investment Company Act of 1940, as amended.
- Proposed Rule 5.2–E(j)(8)(c)(2) would define the term ''Exchange-Traded Fund'' as having the same meaning as the term ''exchange-traded fund'' as defined in Rule 6c–11(a)(1) under the 1940 Act.[11]
- Proposed Rule 5.2–E(j)(8)(c)(3) would define the term ''Exchange-Traded Fund Share'' to mean a share of stock issued by an Exchange-Traded Fund.[12]
- Proposed Rule 5.2–E(j)(8)(c)(4) would define the term ''Reporting Authority'' to mean, in respect of a particular series of Exchange-Traded Fund Shares, the Exchange, an institution, or a reporting service designated by the Exchange or by the exchange that lists a particular series of Exchange-Traded Fund Shares (if the Exchange is trading such series pursuant to UTP) as the official source for calculating and reporting information relating to such series, including, but not limited to, the amount of any cash distribution to holders of Exchange-Traded Fund Shares, net asset value, or other information relating to the issuance, redemption or trading of Exchange-Traded Fund Shares. As further proposed, a series of Exchange-Traded Fund Shares may have more than one Reporting Authority, each having different functions.[13]

Proposed Rule 5.2–E(j)(8)(d) would specify the limitations on Exchange liability and relates to limitation of the Exchange, the Reporting Authority, or any agent of the Exchange as a result of specified events and conditions. Specifying such limitations of liability is standard in the Exchange's rules governing the listing of Derivative Securities Products and the proposed rule text is based on Rules 5.2–E(j)(3)(D), 8.100–E(f), 8.201–E(f), 8.200–E(f), 8.202–E(f), 8.203–E(f), 8.204–E(g), 8.300–E(f), 8.400–E(f), 8.500–E(e), 8.600–E(e), and 8.700–E(g).

Proposed Rule 5.2–E(j)(8)(e) would provide that Exchange may approve Exchange-Traded Fund Shares for listing and/or trading (including pursuant to UTP) pursuant to Rule 19b–4(e) under the Exchange Act provided that each series of Exchange-Traded Fund Shares must be eligible to operate in reliance on Rule 6c–11 and must satisfy the requirements of proposed Rule 5.2–E(j)(8) upon initial listing and on a continuing basis. As further proposed, an issuer of such securities must notify the Exchange of any failure to comply with such requirements.

Proposed Rule 5.2–E(j)(8)(e)(1) would set forth the initial and continued listing standards for Exchange-Traded Fund Shares to be listed on the Exchange and would provide that Exchange-Traded Fund Shares will be listed and traded on the Exchange subject to the requirement that the investment company issuing a series of Exchange-Traded Fund Shares is in compliance with the requirements of Rule 6c–11(c)[14] on an initial and continued listing basis.

Proposed Rule 5.2–E(j)(8)(e)(2) would set forth the standards for suspension of trading or removal of Exchange-Traded Fund Shares from listing on the Exchange and would provide that the Exchange will maintain surveillance procedures for securities listed under proposed Rule 5.2–E(j)(8) and would consider the suspension of trading in, and will commence delisting proceedings under Rule 5.5–E(m) of, a series of Exchange-Traded Fund Shares under any of the following circumstances:

(i) If the investment company notifies the Exchange that it does not comply with the requirements of Rule 6c–11(c) under the 1940 Act (see proposed Rule 5.2–E(j)(8)(e)(2)(A));

(ii) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable (see proposed Rule 5.2–E(j)(8)(e)(2)(B)). This proposed rule text is based, for example,

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[11] Rule 6c–11(a)(1) defines ''exchange-traded fund'' as a registered open-end management company: (i) That issues (and redeems) creation units to (and from) authorized participants in exchange for a basket and a cash balancing amount if any; and (ii) Whose shares are listed on a national securities exchange and traded at market-determined prices. The terms ''authorized participant,'' ''basket'' and ''creation unit'' are defined in Rule 6c–11(a).

[12] The definition of Exchange-Traded Fund Shares is the same as the definition of ''exchange-traded fund shares'' in Rule 6c–11(a) under the 1940 Act.

[13] Proposed Rule 5.2–E(j)(8)(c)(3) is based, for example, on Rules 8.100–E(a)(2) for Portfolio Depositary Receipts); 8.600–E(c)(4) (for Managed Fund Shares) and 8.700–E(c)(4) (for Managed Trust Securities).

[14] Rule 6c–11(c) (''Conditions'') sets forth certain conditions applicable to exchange-traded funds, and specifies the information required to be disclosed prominently on the fund's website free of charge, including the following:

(i) Before the opening of regular trading on the primary listing exchange of the exchange-traded fund shares, the estimated cash balancing amount (if any) and the following information (as applicable) for each portfolio holding that will form the basis of the next calculation of current net asset value per share:

(A) Ticker symbol;

(B) CUSIP or other identifier;

(C) Description of holding;

(D) Quantity of each security or other asset held; and

(E) Percentage weight of the holding in the portfolio;

(ii) The exchange-traded fund's current net asset value per share, market price, and premium or discount, each as of the end of the prior business day;

(iii) A table showing the number of days the exchange-traded fund's shares traded at a premium or discount during the most recently completed calendar year and the most recently completed calendar quarters since that year (or the life of the exchange-traded fund, if shorter);

(iv) A line graph showing exchange-traded fund share premiums or discounts for the most recently completed calendar year and the most recently completed calendar quarters since that year (or the life of the exchange-traded fund, if shorter);

(v) The exchange-traded fund's median bid-ask spread, expressed as a percentage rounded to the nearest hundredth (and computed in a manner described in Rule 6c–11(c)(v)(A) through (D)); and

(vi) If the exchange-traded fund's premium or discount is greater than 2% for more than seven consecutive trading days, a statement that the exchange-traded fund's premium or discount, as applicable, was greater than 2% and a discussion of the factors that are reasonably believed to have materially contributed to the premium or discount, which must be maintained on the website for at least one year thereafter.

Rule 6c–11(c)(4) provides that the exchange-traded fund may not seek, directly or indirectly, to provide investment returns that correspond to the performance of a market index by a specified multiple, or to provide investment returns that have an inverse relationship to the performance of a market index, over a predetermined period of time.

on Rules 5.2–E(j)(6)(B)(2)(c)(3)(for Index-Linked Securities); 8.600–E(d)(2)(C)(vi)(for Managed Fund Shares); and 8.700–E(d)(2)(c)(vi)(for Managed Trust Securities).

Proposed Rule 5.2–E(j)(8)(f) would provide that transactions in Exchange-Traded Fund Shares would occur during the trading hours specified in Rule 7.34–E(a). As with other Derivative Securities Products listed on the Exchange, Exchange-Traded Fund Shares would trade during the Early, Core, and Late Trading Sessions, as defined in Rule 7.34–E(a). ETP Holders accepting orders in Exchange-Traded Fund Shares in the Early or Late Trading Session would be subject to the customer disclosure requirements specified in Rule 7.34–E(d).

Proposed Rule 5.2–E(j)(8)(g) would provide that the Exchange would implement written surveillance procedures for Exchange-Traded Fund Shares.[15] This proposed rule is based, for example, on Commentary .01(f) to Rule 5.2–E(j)(3) (for Investment Company Units); Commentary .03 to Rule 8.600–E (for Managed Fund Shares); and Commentary .04 to Rule 8.700–E (for Managed Trust Securities).

The Exchange proposes to include Commentary .01 to proposed Rule 5.2–E(j)(8) that would set forth which listing rule would be applicable to Derivative Securities Products that are currently listed on the Exchange and are also Exchange-Traded Funds that are permitted to operate in reliance on Rule 6c–11. As proposed, Commentary .01 to Rule 5.2–E(j)(8) would provide that a Derivative Securities Product that has previously been approved for listing on the Exchange pursuant to the generic listing requirements specified in Rule 5.2–E(j)(3) or Commentary .01 to Rule 8.600–E, or pursuant to a proposed rule change filed and approved or subject to a notice of effectiveness by the Commission, will be deemed to be considered approved for listing under this Rule if such Derivative Securities Product is both (1) permitted to operate in reliance on Rule 6c–11 under the 1940 Act, and (2) the prior exemptive relief under the 1940 Act for such Derivative Securities Product has been rescinded.

As further proposed, once such prior exemptive relief has been rescinded, the continued listing requirements applicable to such previously-listed Derivative Securities Products would be those specified in paragraph (e) of Rule 5.2–E(j)(8) and any requirements for listing as specified in Rule 5.2–E(j)(3) or Commentary .01 to Rule 8.600–E, or an approval order or notice of effectiveness of a separate proposed rule change that differ from the requirements of Rule 5.2–E(j)(8) would no longer be applicable to such Derivative Securities Products.

The Exchange believes that this proposed Commentary harmonizes the Exchange's listing standards for all Exchange-Traded Funds that will be listed on the Exchange, even if they were previously listed pursuant to different continuing listed requirements. Specifically, as noted in the Rule 6c–11 Release, one year following the effective date of Rule 6c–11, the Commission will be rescinding those portions of its prior ETF exemptive orders under the 1940 Act that grant relief related to the formation and operation of certain ETFs. The Exchange believes that once this occurs, all Exchange-Traded Funds will be subject to the same requirements under Rule 6c–11 and will no longer be subject to any differing requirements that may have been set forth in the exemptive orders issued before the effective date of Rule 6c–11. The Exchange therefore believes that any such Exchange-Traded Funds that were previously-listed on the Exchange under a different standard should be deemed approved for listing on the Exchange under proposed Rule 5.2–E(j)(8). To maintain consistent standards for all Exchange-Traded Fund Shares on the Exchange, the Exchange further believes that such previously-listed products should no longer be required to comply with the previously-applicable continued listing requirements for such Exchange-Traded Funds.

The Exchange also proposes non-substantive amendments to include Exchange-Traded Fund Shares in other Exchange rules. Specifically, the Exchange proposes to amend Rule 5.3–E, concerning Corporate Governance and Disclosure Policies, and Rule 5.3–E(e), concerning Shareholder/Annual Meetings, to add Exchange-Traded Fund Shares to the enumerated derivative and special purpose securities that are subject to the respective Rules. Thus, Exchange-Traded Fund Shares would be subject to corporate governance, disclosure and shareholder/annual meeting requirements that are consistent with other derivative and special purpose securities enumerated in those Rules.

The Exchange believes that proposed Rule 5.2–E(j)(8) would promote transparency surrounding the listing process for Exchange-Traded Fund Shares.

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Exchange-Traded Fund Shares in all trading sessions and to deter and detect violations of Exchange rules. Specifically, the Exchange intends to utilize its existing surveillance procedures applicable to Derivative Securities Products to monitor trading in Exchange-Traded Fund Shares.

Pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. As provided for under proposed Rule 5.2–E(j)(8)(e)(2), if the fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Rule 5.5–E(m).

In support of this proposal, the Exchange represents that:

(1) The Exchange-Traded Fund Shares will conform to the initial and continued listing criteria under Rule 5.2–E(j)(8);

(2) the Exchange's surveillance procedures are adequate to properly monitor the trading of the Exchange-Traded Fund Shares in all trading sessions and to deter and detect violations of Exchange rules. Specifically, the Exchange intends to utilize its existing surveillance procedures applicable to derivative products, which will include Exchange-Traded Fund Shares, to monitor trading in the Exchange-Traded Fund Shares; and

(3) the issuer of a series of Exchange-Traded Fund Shares will be required to comply with Rule 10A–3 under the Act for the initial and continued listing of Exchange-Traded Fund Shares, as provided under Rule 5.3–E.

Proposed Discontinuance of Quarterly Reporting Obligation for Managed Fund Shares

In its order approving the Exchange's proposal to adopt generic listing standards for Managed Fund Shares,[16] the Commission noted that the Exchange has represented that it would ''provide the Commission staff with a report each calendar quarter that includes the following information for issues of Managed Fund Shares listed during such calendar quarter under Commentary .01 to NYSE Arca Rule 8.600–E: (1) trading symbol and date of listing on the Exchange; (2) the number of active authorized participants and a description of any failure of an issue of

[15] The Exchange will propose applicable NYSE Arca listing fees for Exchange-Traded Fund Shares in the NYSE Arca Equities Schedule of Fees and Charges in a separate proposed rule change.

[16] *See* Securities Exchange Act Release No. 78397 (July 22, 2016), 81 FR 49320 (the ''Managed Fund Shares Approval Order'').

Managed Fund Shares listed pursuant to Commentary .01 to Rule 8.600–E or of an authorized participant to deliver shares, cash, or cash and financial instruments in connection with creation or redemption orders; and (3) a description of any failure of an issue of Managed Fund Shares to comply with Rule 8.600–E.'' [17] The requirement to provide such quarterly reports is not separately specified in Rule 8.600–E.

The Exchange has provided such information to the Commission on a quarterly basis for two years. The Exchange believes such quarterly reports are no longer necessary in view of the requirements of Rule 6c–11(d), as adopted in the Rule 6c–11 Release, and now proposes to discontinue such reporting going forward. Rule 6c–11(d) includes specific ongoing reporting requirements for exchange-traded funds, including written agreements between an authorized participant and a fund allowing purchase or redemption of creation units, information regarding the baskets exchanged with authorized participants, and the identity of authorized participants transacting with a fund.[18] The Commission has stated that the information required by Rule 6c–11(d) will provide the Commission's examination staff with information to determine compliance with Rule 6c–11 and applicable federal securities laws. [19]

The Exchange therefore believes that the quarterly reports currently required pursuant to the Managed Fund Shares Approval Order are duplicative of the new Rule 6c–11(d) requirements. To avoid unnecessary overlap and potential inconsistency between the quarterly reports currently required under the Managed Fund Shares Approval Order and the reporting requirements of Rule 6c–11(d), and to avoid unnecessary, duplicative burdens on authorized participants and their firms in providing and maintaining information regarding creation and redemption activity, the Exchange proposes to discontinue the filing quarterly reports.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[20] in general, and furthers the objectives of Section 6(b)(5) of the Act,[21] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

By facilitating efficient procedures for listing ETFs that are permitted to operate in reliance on Rule 6c–11, the generic listing rules in proposed Rule 5.2–E(j)(8) described above are consistent with, and will further, the Commission's goals in adopting Rule 6c–11. In addition, by allowing Exchange-Traded Fund Shares to be listed and traded on the Exchange without a prior Commission approval order or notice of effectiveness pursuant to Section 19(b) of the Act, proposed Rule 5.2–E(j)(8) will significantly reduce the time frame and costs associated with bringing these securities to market, thereby promoting market competition among issuers of Exchange-Traded Fund Shares, to the benefit of the investing public.

In addition, the proposed rule change would fulfill the intended objective of Rule 19b–4(e) under the Act by permitting Exchange-Traded Fund Shares that satisfy the proposed listing standards to be listed and traded without separate Commission approval.

To be listed under proposed Rule 5.2–E(j)(8), each series of Exchange-Traded Fund Shares must be eligible to operate in reliance on Rule 6c–11 under the 1940 Act and must satisfy the requirements of Rule 5.2–E(j)(8) upon initial listing and on a continuing basis. An issuer of such securities must notify the Exchange of any failure to comply with such requirements.

As provided in proposed Rule 5.2–E(j)(8)(e)(1), Exchange-Traded Fund Shares would be listed and traded on the Exchange subject to the requirement that the investment company issuing a series of Exchange-Traded Fund Shares is in compliance with the requirements of Rule 6c–11(c) [22] under the 1940 Act on an initial and continued listing basis. This requirement will ensure that Exchange-listed Exchange-Traded Fund Shares continue to operate in a manner that fully complies with the portfolio transparency requirements of Rule 6c–11(c).

As provided in proposed Rule 5.2–E(j)(8)(e)(2) (Suspension of trading or removal), the Exchange will maintain surveillance procedures for securities listed under proposed Rule 5.2–E(j)(8) and will consider the suspension of trading in, and will commence delisting proceedings under Rule 5.5–E(m) of, a series of Exchange-Traded Fund Shares if the investment company notifies the Exchange that it does not comply with the requirements of Rule 6c–11(c) under the 1940 Act, or if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

As provided in proposed Rule 5.2–E(j)(8)(g), the Exchange will implement written surveillance procedures for Exchange-Traded Fund Shares. The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Exchange-Traded Fund Shares in all trading sessions and to deter and detect violations of Exchange rules. Specifically, the Exchange intends to utilize its existing surveillance procedures applicable to derivative products, which will include Exchange-Traded Fund Shares, to monitor trading in the Exchange-Traded Fund Shares.

Proposed Commentary .01 to Rule 5.2–E(j)(8) relates to Derivative Securities Products that have previously been approved for listing on the Exchange pursuant to the generic listing requirements specified in Rule 5.2–E(j)(3) or Commentary .01 to Rule 8.600–E, or pursuant to a proposed rule change filed with the Commission. Commentary .01 to proposed Rule 5.2–E(j)(8) will make clear that such funds

[17] *See* Managed Fund Shares Approval Order at footnote 18.

[18] Rule 6c–11(d), which sets forth recordkeeping requirements applicable to exchange-traded funds, provides that that the exchange-traded fund must maintain and preserve for a period of not less than five years, the first two years in an easily accessible place: (1) All written agreements (or copies thereof) between an authorized participant and the exchange-traded fund or one of its service providers that allows the authorized participant to place orders for the purchase or redemption of creation units; (2) For each basket exchanged with an authorized participant, records setting forth: (i) The ticker symbol, CUSIP or other identifier, description of holding, quantity of each holding, and percentage weight of each holding composing the basket exchanged for creation units; (ii) If applicable, identification of the basket as a custom basket and a record stating that the custom basket complies with policies and procedures that the exchange-traded fund adopted pursuant to paragraph (c)(3) of Rule 6c–11; (iii) Cash balancing amount (if any); and (iv) Identity of authorized participant transacting with the exchange-traded fund.

[19] In the Rule 6c–11 Release, the Commission stated that ''requiring ETFs to maintain records regarding each basket exchanged with authorized participants will provide our examination staff with a basis to understand how baskets are being used by ETFs, particularly with respect to custom baskets. In order to provide our examination staff with detailed information regarding basket composition, however, we have modified rule 6c–11 to require the ticker symbol, CUSIP or other identifier, description of holding, quantity of each holding, and percentage weight of each holding composing the basket exchanged for creation units as part of the basket records, instead of the name and quantities of each position as proposed. We believe that this additional information will better enable our examination staff to evaluate compliance with the rule and other applicable provisions of the federal securities laws.'' *See* Rule 6c–11 Release, at 57195.

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(5).

[22] Rule 6c–11(c) sets forth certain conditions applicable to exchange-traded funds, including information required to be disclosed on the fund's website.

will be deemed to be considered approved for listing under Rule 5.2–E(j)(8) if such funds are permitted to operate in reliance on Rule 6c–11 and any prior exemptive relief under the 1940 Act for such product has been rescinded. At such time, to maintain consistent listing standards for all Exchange-Traded Fund Shares listed on the Exchange, any requirements for listing as specified in Rule 5.2–E(j)(3) or Commentary .01 to Rule 8.600–E, or an approval order or notice of effectiveness of a separate proposed rule change that differ from the requirements of this Rule would no longer be applicable to such exchange-traded funds. The Exchange believes this Rule will streamline the listing process for such securities, consistent with the regulatory framework adopted in Rule 6c–11 under the 1940 Act.

The proposed addition of Exchange-Traded Fund Shares to the enumerated derivative and special purpose securities that are subject to the provisions of Rule 5.3–E (Corporate Governance and Disclosure Policies) and Rule 5.3–E (e) (Shareholder/Annual Meetings) would subject Exchange-Traded Fund Shares to the same requirements currently applicable to other 1940 Act-registered investment company securities (*i.e.,* Investment Company Units, Managed Fund Shares and Portfolio Depositary Receipts).

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Exchange-Traded Fund Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Financial Industry Regulatory Authority, on behalf of the Exchange, or the regulatory staff of the Exchange, will communicate as needed regarding trading in Exchange-Traded Fund Shares with other markets that are members of the Intermarket Surveillance Group (''ISG''), including all U.S. securities exchanges on which the components are traded. In addition, the Exchange may obtain information regarding trading in Exchange-Traded Fund Shares from other markets that are members of the ISG, including all U.S. securities exchanges on which the components are traded, or with which the Exchange has in place a comprehensive surveillance sharing agreement.

The Exchange will monitor for compliance with the continued listing requirements. If the Exchange-Traded Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Rule 5.5–E(m).

With respect to the proposed discontinuance of quarterly reports currently required for Managed Fund Shares, the Exchange believes such quarterly reports are no longer necessary in view of the requirements of Rule 6c–11(d).[23] As noted above, Rule 6c–11(d) includes specific ongoing reporting requirements for exchange-traded funds, including written agreements between an authorized participant and a fund allowing purchase or redemption of creation units, information regarding the baskets exchanged with authorized participants, and the identity of authorized participants transacting with a fund. The Commission has stated that the information required by Rule 6c–11(d) will provide the Commission's examination staff with information to determine compliance with Rule 6c–11 and applicable federal securities laws. The Exchange, therefore, believes it is necessary to discontinue the filing quarterly reports to avoid unnecessary overlap and potential inconsistency between the quarterly reports and the reporting requirements of Rule 6c–11(d), and to avoid unnecessary, duplicative burdens on authorized participants and their firms in providing and maintaining information regarding creation and redemption activity.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[24] 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. Instead, the Exchange believes that the proposed rule change would facilitate the listing and trading of Exchange-Traded Fund Shares and result in an efficient process surrounding the listing and trading of Exchange-Traded Fund Shares, which will enhance competition among market participants, to the benefit of investors and the marketplace. The Exchange believes that this will reduce the time frame for bringing Exchange-Traded Fund Shares to market, thereby reducing the burdens on issuers and other market participants and promoting competition. In turn, the Exchange believes that the proposed change would make the process for listing Exchange-Traded Fund Shares more competitive by applying uniform listing standards with respect to Exchange-Traded Fund Shares.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2019–81 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2019–81. 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

[23] *See* note 18, *supra.*

[24] 15 U.S.C. 78f(b)(8).

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2019–81 and should be submitted on or before December 11, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–25101 Filed 11–19–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, Washington, DC 20549–2736

*Extension:*

Rule 201 and Rule 200(g) of Regulation SHO, SEC File No. 270–606, OMB Control No. 3235–0670

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 201 (17 CFR 242.201) and Rule 200(g) (17 CFR 242.200(g)) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 201 is a short sale-related circuit breaker rule that, if triggered, imposes a restriction on the prices at which securities may be sold short. Rule 200(g) provides that a broker-dealer may mark certain qualifying sell orders ''short exempt.'' The information collected under Rule 201's written policies and procedures requirement applicable to trading centers, the written policies and procedures requirement of the broker-dealer provision of Rule 201(c), the written policies and procedures requirement of the riskless principal provision of Rule 201(d)(6), and the ''short exempt'' marking requirement of Rule 200(g) enable the Commission and self-regulatory organizations (''SROs'') to examine and monitor for compliance with the requirements of Rule 201 and Rule 200(g).

In addition, the information collected under Rule 201's written policies and procedures requirement applicable to trading centers helps ensure that trading centers do not execute or display any impermissibly priced short sale orders, unless an order is marked ''short exempt,'' in accordance with the Rule's requirements. Similarly, the information collected under the written policies and procedures requirement of the broker-dealer provision of Rule 201(c) and the riskless principal provision of Rule 201(d)(6) helps to ensure that broker-dealers comply with the requirements of these provisions. The information collected pursuant to the ''short exempt'' marking requirement of Rule 200(g) also provides an indication to a trading center when it must execute or display a short sale order without regard to whether the short sale order is at a price that is less than or equal to the current national best bid.

It is estimated that SRO and non-SRO respondents registered with the Commission and subject to the collection of information requirements of Rule 201 and Rule 200(g) incur an aggregate annual burden of 1,621,571 hours to comply with the Rules and an aggregate annual external cost of $220,000.

Any records generated in connection with Rule 201's requirements that trading centers and broker-dealers (with respect to the broker-dealer and riskless principal provisions) establish written policies and procedures must be preserved in accordance with, and for the periods specified in, Exchange Act Rules 17a–1 for SRO trading centers and 17a–4(e)(7) for non-SRO trading centers and registered broker-dealers. The amendments to Rule 200(g) and Rule 200(g)(2) do not contain any new record retention requirements. All registered broker-dealers that are subject to the amendments are currently required to retain records in accordance with Rule 17a-4(e)(7) under the Exchange Act.

Compliance with Rule 201 and Rule 200(g) is mandatory. We expect that the information collected pursuant to Rule 201's required policies and procedures for trading centers will be communicated to the members, subscribers, and employees (as applicable) of all trading centers. In addition, the information collected pursuant to Rule 201's required policies and procedures for trading centers will be retained by the trading centers and will be available to the Commission and SRO examiners upon request, but not subject to public availability. The information collected pursuant to Rule 201's broker-dealer provision and the riskless principal exception will be retained by the broker-dealers and will be available to the Commission and SRO examiners upon request, but not subject to public availability. The information collected pursuant to the ''short exempt'' marking requirements in Rule 200(g) and Rule 200(g)(2) will be submitted to trading centers and will be available to the Commission and SRO examiners upon request. The information collected pursuant to the ''short exempt'' marking requirement may be publicly available because it may be published, in a form that would not identify individual broker-dealers, by SROs that publish on their internet websites aggregate short selling volume data in each individual equity security for that day and, on a one-month delayed basis, information regarding individual short sale transactions in all exchange-listed equity securities.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov;* and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: November 14, 2019.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–25093 Filed 11–19–19; 8:45 am]

**BILLING CODE 8011–01–P**

[25] 17 CFR 200.30–3(a)(12).

## SOCIAL SECURITY ADMINISTRATION

**[Docket No: SSA–2019–0049]**

### Agency Information Collection Activities: 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, extensions, and corrections 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–2019–0049].

SSA submitted the information collections below to OMB for clearance. Your comments regarding these information collections 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 December 20, 2019. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

**1. Ohio Direct Referral Demonstration (ODRD)—0960–NEW**

**Background**

SSA is requesting clearance to collect data necessary to conduct a random assignment evaluation of volunteers in Ohio who enroll in Ohio Direct Referral Demonstration (ODRD). SSA and Opportunities for Ohioan's with Disabilities (OOD) will conduct the ODRD to test the effectiveness of providing direct referrals to vocational rehabilitation services for 18 and 19 year-olds who are, or may become, Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) recipients. The participants in the demonstration will be individuals ages 18 and 19 at the time of enrollment, who are either (1) applying for SSDI or SSI or (2) undergoing an age-18 redetermination of SSI eligibility. The ODRD is a joint effort by SSA and OOD's Division of Disability Determination (DDD), and Ohio's Bureau of Vocational Rehabilitation (BVR). ODRD builds off other work by SSA exploring ways to improve the adult employment outcomes and financial independence for SSI recipients and SSI and SSDI applicants who are in the process of transitioning to adulthood. ODRD tests the effects of a direct referral to vocational rehabilitation services for individuals aged 18 or 19 who are in the process of applying for, or undergoing an evaluation to, retain SSDI benefits or SSI payments. We will use the data collected to answer the following questions:

- What effect did the intervention have on receipt of Ohio's BVR services?
- What effect did the intervention have on employment outcomes, such as job placement and earnings?
- What is the length of time from application to eligibility decision?
- What general vocational rehabilitation outcomes did participants achieve?
- What was the number of closed cases resulting in employment and what was the number of cases closed for other reasons?

**Ohio Direct Referral Demonstration (ODRD) Project**

Currently, SSA is seeking OMB clearance for the data collection related to enrollment and evaluation of the ODRD. Using SSA claims records, which DDD will access to perform disability determinations for SSA, DDD will attempt to recruit at least 750 participants.

As required under SSA's demonstration authority, DDD will obtain signed, informed consent from individuals who want to participate in the demonstration. Recruitment for the ODRD will require two forms: (1) A new Invitation to Participate and Consent form, and (2) Form SSA–3288, Consent for Release of Information (OMB # 0960–0566). ODD will send the new Invitation to Participate and Consent form to young adult disability recipients, whose claim we sent to the DDD for a continuing disability review, and applicants to see if they are interested in participating in the demonstration. The ODRD Invitation to Participate and Consent forms will meet the informed consent requirements in the Social Security Act and SSA regulations. Specifically, they include language explaining the study as well as potential benefits and harms. SSA will use administrative records systems and BVR data to evaluate the effect of the demonstration.

This is a onetime collection of information, and there are no surveys or additional data collections for the ODRD. This collection is voluntary, and participation in this demonstration will have no impact on respondents' disability determination, benefits, or SSI payments. In addition, participation in the ODRD is revocable at any time. SSA and OOD will remove participants who revoke consent from the demonstration. Upon notification of revocation of participation, SSA and OOD will no longer use, transmit, or request information about the participant who revoked participation in any ODRD data exchange or analysis. Participation in the ODRD will have no effect on DDD's usual process for deciding eligibility for SSI payments or SSDI benefits.

The respondents are individuals aged 18 or 19 who are in the process of applying for, or undergoing an evaluation, to obtain or retain SSDI benefits or SSI payments.

*Type of Request:* This is a new 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) ** |
|---|---|---|---|---|---|---|
| Invitation to Participate and Consent Form—Participant Only (no Representative Payee | 645 | 1 | 6 | 65 | *8.55 | **556 |
| Invitation to Participate and Consent Form—Representative Payee (on behalf of the Participant) | 105 | 1 | 6 | 11 | *33.50 | **369 |
| Totals | 750 | | | 76 | | **925 |

*We based this figure on average U.S. minimum wage (for the participants ages 18–19 who may be working); and the average family income in Ohio (for the Representative Payees).

**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. The Strengthening Protections for Social Security Beneficiaries Act of 2018, Section 103(b) Questionnaire—0960–NEW**

**Background**

SSA pays monthly benefits to members of the public who qualify under the Old Age, Survivors, and Disability Insurance (OASDI) program and who are eligible for the Supplemental Security Income (SSI) program. Some claimants who qualify for monthly payments under these programs are unable to manage their benefit payments. When SSA deems program participants incapable of managing, or directing the management of their benefits, SSA sends the payments to a representative payee on the beneficiary's behalf. The representative payee is a person or organization designated by SSA to manage OASDI or SSI payments to meet the individual's basic needs, such as food, clothing, and shelter.

**Explanation of Proposed Information Collection Tool**

To help ensure that appointed representatives are acting in the best interests of the claimants whom they represent, Section 103(b) of the *Strengthening Protections for Social Security Beneficiaries Act (SPSSBA), Public Law 115–165,* requires SSA to assess the administrative feasibility of improving information sharing about claimants with representative payees, with State agencies that provide Adult Protective Services. Specifically, Section 103(b) of the SPSSBA asks us to evaluate the following:

- The assessment of an individual's need for a representative payee in connection with benefits to which the individual is entitled under Title II or Title XVI of the Social Security Act; and
- Oversight of the individuals and organizations who are serving as representative payees.

To conduct this evaluation, SSA created the Strengthening Protections for Social Security Beneficiaries Act of 2018, Section 103(b) Questionnaire. The Questionnaire will assess the representative payee data available from each State and determine if the State is willing to share the data it collects. We will email this one-time questionnaire to State agencies or non-governmental entities that provide Adult Protective Services, and let them know that participation in the questionnaire is voluntary. We estimate we will receive one response per respondent, and one respondent per agency. We expect to complete this study by June 30, 2022, so we can submit the required report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate in accordance with the SPSSBA. The Respondents are State agencies and non-governmental entities that provide Adult Protective Services to disability claimants under our OASDI and SSI programs.

*Type of Request:* Request for a new 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) ** |
|---|---|---|---|---|---|---|
| Emailed Questionnaire | 57 | 1 | 12 | 11 | *12.15 | **134 |

*We based this figure on average State Governmental Information Clerks hourly salary.

**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.*

Date: November 15, 2019.

**Naomi Sipple,**

*Reports Clearance Officer, Social Security Administration.*

[FR Doc. 2019–25120 Filed 11–19–19; 8:45 am]

**BILLING CODE 4191–02–P**

## DEPARTMENT OF STATE

**[Public Notice: 10951]**

### Notice of Determinations; Culturally Significant Objects Imported for Exhibition—Determinations: ''Masterpieces of Hellenistic Metalwork'' Exhibition

**SUMMARY:** Notice is hereby given of the following determinations: I hereby determine that certain objects to be exhibited in the exhibition ''Masterpieces of Hellenistic Metalwork,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at The J. Paul Getty Museum at the Getty Villa, Pacific Palisades, California, from on or about December 2, 2019, until on or about December 2, 2024, 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:** Chi D. Tran, Paralegal Specialist, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

**SUPPLEMENTARY INFORMATION:** The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

**Marie Therese Porter Royce,**

*Assistant Secretary, Educational and Cultural Affairs, Department of State.*

[FR Doc. 2019–25086 Filed 11–19–19; 8:45 am]

**BILLING CODE 4710–05–P**

## DEPARTMENT OF STATE

**[Public Notice 10953]**

### Commission on Unalienable Rights; Notice of Open Meeting

The Commission on Unalienable Rights (''Commission'') will meet from 1:15 until 5:30 p.m., on Wednesday, December 11, 2019 at the Department of State in Washington, DC. Participants are asked to use the 23rd Street entrance of the Harry S. Truman Building to gain access to the meeting. The meeting will be directed by the Chair of the Commission and Learned Hand Professor of Law at Harvard Law School, Mary Ann Glendon. The Commission serves the U.S. government in a solely advisory capacity and provides advice concerning principles related to human rights. The December 11 meeting will focus on international legal commitments concerning human rights that the United States has entered since World War II.

This meeting is open to the public. Entry to the building is controlled. To obtain pre-clearance for entry, members of the public planning to attend must, *no later than December 2,* provide their full name and email address to the RSVP email address at *RSVPCommission@state.gov.* Non-Department of State attendees should also provide date of birth and identifying data (driver's license or passport number). Requests for reasonable accommodation should be made at the same time as the notification. Late requests will be considered but might not be possible to fulfill.

This information is being collected pursuant to 22 U.S.C. 2651a and 22 U.S.C. 4802 for the purpose of screening and pre-clearing participants to enter the host venue at the U.S. Department of State, in line with standard security procedures for events of this size. The Department of State will use this information consistent with the routine uses set forth in the System of Records Notices for Protocol Records (State-33) and Security Records (State-36). See *https://www.state.gov/system-of-records-notices-privacy-office/.* Provision of this information is voluntary, but failure to provide accurate information may impede your ability to register for the event. Email addresses are collected for purposes of notification should the meeting be postponed or cancelled due to weather or other exigencies.

Please see *https://www.state.gov/commission-on-unalienable-rights* for the commissioners' biographies, read-ahead materials (if available), and Commission-related documents. To communicate with the Commission, the public may submit materials in advance of the meeting to *commission@state.gov,* or mail to: U.S. Department of State, ATTN: Duncan Walker, HST 7312, 2201 C Street NW, Washington, DC 20520.

In addition, there will be microphones in the audience for questions and comments during the Q&A portion of the meeting, as well as a table to leave written documents with the Commission.

For additional information, contact Duncan Walker, Policy Planning Staff, at (202) 647–2236, or *walkerdh3@state.gov.*

**Duncan H. Walker,**

*Designated Federal Officer, U.S. Department of State.*

[FR Doc. 2019–25175 Filed 11–19–19; 8:45 am]

**BILLING CODE 4710–10–P**

## DEPARTMENT OF STATE

**[Public Notice 10944]**

### Bureau of Educational and Cultural Affairs Evaluation Division Focus Group Discussions

**ACTION:** Notice of meetings.

**SUMMARY:** The Bureau of Educational and Cultural Affairs' (ECA) Evaluation Division invites current and potential award recipients to participate in an initiative aimed at refining ECA's Monitoring and Evaluation (M&E) system. The Division plans to host Focus Group Discussions (FGDs) designed to provide an opportunity for current and prospective ECA award recipients to offer input regarding program indicators and corresponding data collection questions as part of a broader effort to create a performance monitoring system that will provide reliable, easily-accessible data. For more detailed information on this initiative, please watch the following webinar: *https://youtu.be/kzvHwXkmLJ8.* Persons interested in attending a FGD must denote their interest by Friday, November 22nd using the following link: *https://bit.ly/2MKUKQt.* After the close of registration, the Division will reach out to schedule participation in the FGDs. Please note that if the Evaluation Division receives a significant level of interest, it may randomly select attendees—while those not selected will be provided a link to upload the information they would like to have considered.

**FOR FURTHER INFORMATION CONTACT:** Questions and requests for additional information regarding the FGDs or ECA's M&E initiative may be sent to Natalie Donahue, Chief of Evaluation, Bureau of Educational and Cultural Affairs at *ecaevaluation@state.gov* no later than Friday, November 22nd. The Evaluation Division will post responses to questions on its website (*https://eca.state.gov/impact/eca-evaluation-division/learning*) by Tuesday, December 3rd.

**SUPPLEMENTARY INFORMATION:**

*Background:* The Evaluation Division began development of an enhanced performance monitoring system to enable ECA leadership, program offices, and award recipients to better assess program performance and respond quickly to requests for information. The Evaluation Division would like to ascertain insights from current and potential award recipients as to what indicators should be considered, and any data collection questions that could be particularly useful in measuring the outcomes of exchange programs. Please note that participation in this initiative is voluntary and will not impact current awards or future selection or funding decisions. For those who would like to offer input for the initiative but do not register in time or are unable to attend a FGD, ideas for possible indicators and/or data collection questions may be submitted via email to *ecaevaluation@state.gov* through Friday, December 20th.

**Aleisha Woodward,**

*Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2019–25134 Filed 11–19–19; 8:45 am]

**BILLING CODE 4710–05–P**

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**[Docket Number USTR–2019–0001]**

## Results of the 2019 Annual Generalized System of Preferences Review

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice.

**SUMMARY:** The Office of the United States Trade Representative (USTR) is announcing the results of the 2019 annual Generalized System of Preferences (GSP) review with respect to: Products considered for removal from the list of eligible products for certain beneficiary countries; decisions related to competitive need limitations (CNLs), including petitions for waivers of CNLs; and requests to reinstate/redesignate products previously excluded from GSP eligibility for certain countries.

**FOR FURTHER INFORMATION CONTACT:** Claudia Chlebek, Director for GSP at (202) 395–2974 or *claudia.m.chlebek@ustr.eop.gov.*

**SUPPLEMENTARY INFORMATION:**

### A. Background

The GSP program provides for the duty-free treatment of designated articles when imported from beneficiary developing countries. The GSP program is authorized by Title V of the Trade Act of 1974 (19 U.S.C. 2461 *et seq.*), as amended, and is implemented in accordance with Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations.

Each year, USTR leads the interagency Trade Policy Staff Committee (TPSC) in reviewing the list of products eligible for GSP benefits and, after completing this process, which includes public hearings, provides recommendations to the President on appropriate actions based on statutory criteria, including exclusions from duty-free treatment of products from certain countries when they have reached the statutory CNL thresholds.

The GSP statute (19 U.S.C. 2463(c)(2)) establishes CNLs as a basis for withdrawing duty-free treatment. The statute provides that when the President determines that a GSP beneficiary has exported to the United States during any calendar year a quantity of an eligible article that either is (1) greater than a specified amount ($185 million for 2018), or (2) exceeds 50 percent of the appraised value of the total U.S. imports of that article, the President ''shall, not later than November 1 of the next calendar year, terminate the duty-free treatment for that article'' from that beneficiary, unless a waiver is granted.[1]

Under 19 U.S.C. 2463(d), the President may waive either CNL if, before November 1 of the calendar year following the year in which imports exceeded CNLs, the President (1) receives advice from the U.S. International Trade Commission on whether any industry in the United States is ''likely to be adversely affected by such waiver''; (2) determines, based on certain statutory considerations,[2] that such a waiver is in the national economic interest; and (3) publishes that determination in the **Federal Register**. The statute further provides in 19 U.S.C. 2363(c)(2)(F) that the President may disregard the 50 percent CNL if total imports of an article did not exceed a *de minimis* amount ($24 million in 2018), or if the product was not produced in the United States in any of the three preceding calendar years.

### B. Results of the 2019 Annual GSP Review

In the 2019 annual GSP review, the TPSC reviewed (1) petitions to remove the GSP eligibility of 2 products; (2) 3 petitions to redesignate products previously excluded from GSP eligibility for certain beneficiary countries; (3) petitions to waive CNLs for 2 products from beneficiary countries; and (4) 27 products eligible for 1 year *de minimis* waivers of CNLs.

Presidential Proclamation 9955 of October 25, 2019, implements the President's decisions regarding the 2019 annual GSP review, including CNL waivers and product redesignations. These modifications to the GSP program, implemented by Presidential Proclamation 9955, became effective on November 1, 2019. This notice provides a summary of the results of the 2019 annual GSP review. You also can view the results, comprising five lists, at *https://www.regulations.gov* using docket number USTR–2019–0001, under ''Supporting and Related Materials'' and on the USTR website at *https://ustr.gov/sites/default/files/files/gsp/Results_of_the_2019_GSP_Annual_Product_Review.pdf.*

As described in List I, the President denied the two petitions to remove Polyethylene Terephthalate (PET) resin (HTS 3907.61.00 and HTS 3907.69.00) from GSP eligibility for Pakistan. Qualifying products from Pakistan will continue to enter the United States duty-free.

As described in List II, the President granted a petition to redesignate fresh-cut orchids (HTS 0603.13.00) from Thailand to GSP. In addition, the President granted a petition to redesignate bamboo plywood (HTS 4412.10.05) and certain tropical hardwood plywood (HTS 4412.31.4155 (pre-November 1, 2019) and HTS 4412.31.45 (post November 1, 2019)) from Indonesia to GSP. Qualifying products, therefore, now enter the United States duty-free.

As described in List III, one product from North Macedonia exceeded the CNLs, for which no petition was received, and now enters the United States at the NTR duty rate. This product is motor vehicles with diesel engine for 16 or more passengers (HTS 8702.10.31).

As described in List IV, the President granted a petition for a CNL waiver for plastic spectacle lenses (HTS 9001.50.00) from Thailand; qualifying products will continue to enter the

[1] CNLs do not apply to least-developed or sub-Saharan African beneficiary countries (19 U.S.C. 2463(c)(2)(D)).

[2] These include the general statutory considerations for granting duty-free treatment for any article from any beneficiary under 19 U.S.C. 2461, as well as the country eligibility criteria set forth in 19 U.S.C. 2462(c).

United States duty-free. The President denied a petition for a CNL waiver for stearic acid (HTS 3823.11.00) from Indonesia. Therefore, the product is subject to the NTR duty rate.

As described in List V, the President granted one-year *de minimis* waivers to 27 products that exceeded the 50-percent import-share CNL but for which the aggregate value of all U.S. imports of that article was below the 2018 *de minimis* level of $24 million. Qualifying products will continue to enter the United States duty-free.

**Erland Herfindahl,**

*Deputy Assistant U.S. Trade Representative for the Generalized System of Preferences, Office of the United States Trade Representative.*

[FR Doc. 2019–25095 Filed 11–19–19; 8:45 am]

**BILLING CODE 3290–F0–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Docket No. 2019–0640]**

### Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Air Taxi and Commercial Operator Airport Activity Survey

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

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves requesting that small on-demand operators voluntarily provide the number of revenue passengers that boarded their aircraft at each airport annually. This information is used in determining an airport's category and eligibility for federal funding on an annual basis. It is not available through any other federal data source. The 60-day FRN was published on August 16, 2019.

**DATES:** Written comments should be submitted by December 20, 2019.

**ADDRESSES:** Please send written comments:

*By electronic docket: www.regulations.gov* (2019–0640).

*By mail:* Luis Loarte, FAA, 800 Independence Avenue SW, Washington, DC 20591.

*By fax:* 202–267–5257.

**FOR FURTHER INFORMATION CONTACT:** Luis Loarte by email at: *Luis.Loarte@faa.gov;* phone: 202–267–9622.

**SUPPLEMENTARY INFORMATION:**

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including: (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

*OMB Control Number:* 2120–0067.

*Title:* Air Taxi and Commercial Operator Airport Activity Survey.

*Form Numbers:* FAA Form 1800–31.

*Type of Review:* Clearance of a renewal of an information collection.

*Background:* The data collected through this survey is the only source of data for charter and nonscheduled passenger data by Part 135 operator (air taxis). The data received on the form (either paper or signed electronic copy) is then incorporated into the Air Carrier Activity Information System which is used to determine whether an airport is eligible for Airport Improvement Program funds and for calculating primary airport sponsor apportionment as specified by title 49 United Stated Code (U.S.C.), section 47114. The data collected on the form includes passenger enplanements by carrier and by airport. Passengers traveling on air taxis would be overlooked entirely if this passenger survey were not conducted. As a result, many airports would not receive their fair share of funds since there is currently no other source for this type of charter activity. On average, approximately 100 operators respond each year, reporting a total 1.1 million passengers. This data is important to those airports that struggle to meet the 2,500 and 10,000 passenger levels and could not do so without the reporting of the charter passengers. The 60-day FRN was published on August 16, 2019 under FRN document citation number 2019–0640.

*Respondents:* The voluntary survey is sent through the U.S. Postal Service to approximately 190 small on-demand operators (certificated under Federal Aviation Regulation Part 135) that have reported activity in the last three years. The form is also available on the FAA website. Beginning with the calendar year 2019 data, operators will be able to access the form, electronically sign and submit it to the FAA.

*Frequency:* Annually.

*Estimated Average Burden per Response:* 1.5 hours per respondent.

*Estimated Total Annual Burden:* On average, approximately 100 respondents submit an annual response. The cumulative total annual burden is estimated to be 150 hours.

Issued in Washington, DC, on November 14, 2019.

**Luis Loarte,**

*Senior Airport Planner, Office of Airports/ Airport Planning and Environmental Division.*

[FR Doc. 2019–25087 Filed 11–19–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket Number FRA–2016–0086]**

### Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on October 3, 2019, CSX Transportation (CSX) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 232, *Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment,* and 49 CFR part 229, *Railroad Locomotive Safety Standards.* FRA assigned the petition Docket Number FRA–2016–0086.

Specifically, CSX seeks relief with respect to the application of 49 CFR 232.205(c)(1)(iii), *Leakage test,* and § 229.29(b), *Air brake system calibration, maintenance, and testing,* for the calibration of locomotive air flow method (AFM) indicators. CSX requests to become a full test member of the existing FRA–2016–0086 test waiver (joining BNSF Railway), under the same conditions as BNSF, for testing 1,264 of CSX's New York Air Brake (NYAB) CCB II equipped locomotives (*see* FRA–2016–0086–0006) to investigate whether the interval for calibration may be safely extended to 184 days. CSX also requests to form a test team operating under the current FRA–2016–0086 test committee to test all 440 CSX Wabtec Fastbrake-equipped locomotives. CSX has been an active member of the FRA–2016–0086 test committee since its inception and is familiar with the work performed to date by this committee. On August 29, 2019, the test committee extended a consensus recommendation for CSX to join the waiver as a testing member to

help assess Wabtec's Fastbrake systems, and to expand the scope of NYAB CCB II locomotives being evaluated under the waiver.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Ave. SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by December 20, 2019 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov*.

Issued in Washington, DC.

**John Karl Alexy,**

*Associate Administrator for Railroad Safety, Chief Safety Officer.*

[FR Doc. 2019–25138 Filed 11–19–19; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF VETERANS AFFAIRS

### Summary of a Precedent Opinion of the General Counsel

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Office of the General Counsel (OGC) involving crediting certain veterans for their payment of the statutory funding fee. This interpretation is considered precedential by VA and will be followed by VA officials and employees in matters involving the same legal issues. This summary is published to provide the public with notice of VA's interpretations regarding the legal matters at issue.

**FOR FURTHER INFORMATION CONTACT:** Ms. Suzanne Hill, Law Librarian, Department of Veterans Affairs, Office of the General Counsel, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–7624.

**SUPPLEMENTARY INFORMATION:** A VA regulation at 38 Code of Federal Regulation 2.6(e)(8) delegates to the VA General Counsel, the power to designate an opinion as precedential, and 38 CFR 14.507(b) specifies that precedential opinions are binding on VA officials and employees in subsequent matters involving the legal issue decided in the precedent opinion. The interpretation of the General Counsel on legal matters contained in such opinions is conclusive as to all VA officials and employees not only in the matter at issue but also in subsequent matters unless there has been a material change in a controlling statute or regulation or a superseding written legal opinion of the General Counsel or a judicial decision. 38 CFR 14.507(b). VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel that must be followed in future matters. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above or by accessing the opinions on the internet at: *http://www.va.gov/ogc/precedentopinions.asp.*

**VAOPGCPREC 2–2019**

*Questions Presented*

1. Does VA have legal authority to issue a refund of a funding fee collected under 38 United States Code 3729 when the requirements for waiver of the fee under section 3729(c) are met?

2. If yes, to whom and under what circumstances?

3. Is a refund determination subject to the Veterans Appeals Improvement and Modernization Act of 2017 (AMA)?

*Held*

1. Yes. If VA determines that veterans impermissibly incurred funding fees due to overt error, systems limitations, or process limitations, VA should promptly credit such veterans for the fees they incurred. Additionally, VA must refund a funding fee if a later-in-time award of disability compensation is effective as of a date that is on or before the date the funding fee was collected.

2. We believe a claim for remittance of a funding fee that was improperly assessed or that may now be refunded due to an intervening retroactive award of service-connected benefits is similar to the types of claims that the U.S. Court of Appeals for Veterans Claims has found not to be claims for benefits. Since a claim for a refund is not a claim for benefits, VA should promulgate rules clarifying VA's policy and procedures for processing claims for refunds. VA should continue to issue refunds whenever VA determines on its own, or if a veteran provides documentation, that a refund is due.

3. The three-lane review scheme of the AMA applies to claims for ''benefits''; VA is not required to make all three AMA review options available with respect to determinations not involving benefit claims. VA could choose to make higher-level review processes for supplemental claims or make similar processes available for decisions concerning requests for refund of the funding fee.

*Effective Date:* June 25, 2019.

Richard J. Hipolit,

*Principal Deputy General Counsel*

*Signing Authority:* The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Pamela J. Powers, the Chief of Staff of Veterans Affairs, approved this document on November 13, 2019, for publication.

**Jeffrey M. Martin,**

*Assistant Director, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.*

[FR Doc. 2019–25113 Filed 11–19–19; 8:45 am]

**BILLING CODE 8320–01–P**


# FEDERAL REGISTER

Vol. 84 Wednesday,
No. 224 November 20, 2019

Part II

## The President

Proclamation 9966—American Education Week, 2019

Federal Register
Vol. 84, No. 224
Wednesday, November 20, 2019

# Presidential Documents

**Title 3—**

**The President**

**Proclamation 9966 of November 15, 2019**

## American Education Week, 2019

**By the President of the United States of America**

**A Proclamation**

Every child in America deserves equal access to an education that meets their individual needs and prepares them for success. In America, the responsibility for education policy decisions is reserved mainly to the States and to the local officials who know their students best, and we recognize the countless teachers and administrators who contribute every day to innovative solutions at the State and local level. During American Education Week, we celebrate the boundless potential of America's students, honor the teachers, parents, and guardians who help to develop their talents, and commit to expanding educational freedom across the country.

A child begins to learn long before the first day of kindergarten and continues to learn well past high school graduation. Education is not confined to a single method, location, or timeframe, but instead is a process that lasts a lifetime. Our education system should inspire students to become lifelong learners, and it should preserve the rights of parents to play an active role in educating their children, facilitate dynamic teaching styles that fit individual students, and free students to pursue their passions.

Because students have their own unique learning styles, teachers should be free from burdensome regulations and constraints that inhibit their ability to teach students according to their needs. This type of teaching and learning paves the way to rewarding careers and fulfilling lives for young Americans, promoting healthy families, vibrant communities, and continued economic prosperity across our Nation. To create the type of environments where learning can flourish and to seize the opportunities of tomorrow, we must ensure students are able to learn in ways and places that work for them.

My Administration supports educational freedom by opposing one-size-fits-all Federal regulations, restoring decision-making authority to State and local leaders, and empowering families and students. This year, we proposed a transformative new tool for students to access the right education for them: Education Freedom Scholarships. These scholarships will provide up to $5 billion annually in Federal tax credits for voluntary donations to State-based scholarship programs. This program is a bold and necessary step to ensure every family has the freedom to pursue the educational options that are best for them, regardless of zip code. We look forward to the Congress taking action to approve these privately-funded scholarships and to free millions of students of all ages to learn in new and innovative educational settings, without taking a penny from public schools.

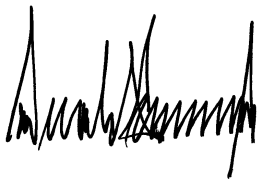
In order to successfully prepare students for the jobs and economy of the future, education must be dynamic and forward-thinking in its scope and focus. This September, my Administration announced $123 million in new funding to dozens of school districts, nonprofit organizations, and State educational agencies across the country as part of the Department of Education's Education Innovation and Research (EIR) competitive grant program. These grants will create new, innovative, and personalized ways for students to learn. To help the next generation maintain America's leading role in the global marketplace, more than $78 million will fund projects focused

on innovations in science, technology, engineering, and math (STEM) education.

This week, we recognize the power of education and pay tribute to the educators and role models who shape the students of today into the leaders of tomorrow. Their efforts help provide a high-quality education to millions of students, build strong communities, and ensure that America maintains its standing in an increasingly competitive world. Education in America is as important today as it ever has been, and we remain committed to providing teachers and students with the freedom and resources they need to be successful.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 17 through November 23, 2019, as American Education Week. I commend our Nation's schools, their teachers and leaders, and the parents of students across this land. And I call on States and communities to support high-quality education to meet the needs of all students.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of November, in the year of our Lord two thousand nineteen, and of the Independence of the United States of America the two hundred and forty-fourth.



[FR Doc. 2019–25345
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# FEDERAL REGISTER

Vol. 84 Wednesday,
No. 224 November 20, 2019

Part III

## The President

Notice of November 19, 2019—Continuation of the National Emergency With Respect to Burundi

Federal Register
Vol. 84, No. 224
Wednesday, November 20, 2019

# Presidential Documents

**Title 3—**

## The President

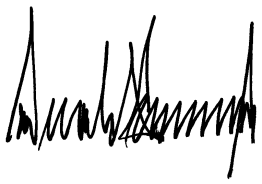
**Notice of November 19, 2019**

## Continuation of the National Emergency With Respect to Burundi

On November 22, 2015, by Executive Order 13712, the President declared a national emergency to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the situation in Burundi, which has been marked by the killing of and violence against civilians, unrest, the incitement of imminent violence, and significant political repression, and which threatens the peace, security, and stability of Burundi and the region.

The situation in Burundi continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared on November 22, 2015, to deal with that threat must continue in effect beyond November 22, 2019. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to Burundi declared in Executive Order 13712.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
*November 19, 2019.*

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